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Loyola

Lawyer

Loyola Law School ♦ Los Angeles

Fall 2004

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Special Report on Endowment Campaign

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LOYOLA Lawyer

Fall 2004

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OUR CHALLENGE

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See the Campaign pullout section.





AND WHO IS MY

NEIGHBOR?

THE GOOD SAMARITAN AND PEOPLE WITH DISABILITIES
AS FULL MEMBERS OF THE COMMUNITY

By Jan C. Costello, Professor of Law

The following is excerpted from a chapter entitled, "And Who Is My Neighbor? Autonomy Value, the Ethic of Care, and Full Inclusion for People with Mental Disabilities," in *The Just One Justices: The Role of Justice at the Heart of Catholic Higher Education*, Mary K. McCullough, Ed., 117-134 (Univ. Scranton Press 2000). In that chapter, Professor Costello first describes the concepts of autonomy value and the ethic of care as bases for the rights of people with mental or physical disabilities. She next describes how, prior to the passage of the Americans with Disabilities Act (ADA), disability rights advocates had limited success with claims grounded in the United States Constitution: "Over the past 25 years courts and legislatures have been willing to acknowledge *autonomy rights* of disabled persons but less so to recognize *rights to care and treatment*. In practice this has meant that people with disabilities have not received the programs and services which could either improve the quality of their lives within institutions or enable them to live outside of institutions and in the community." By way of contrast, she discusses the much more inclusive concept of "neighbor" illustrated by the parable of the Good Samaritan.

ANYVILLE SECONDARY SCHOOL



THE GOOD SAMARITAN AND THE CONCEPT OF 'NEIGHBOR'

There was a scholar of the law who stood up to test him, and said, "Teacher, what must I do to inherit eternal life?" Jesus said to him, "What is written in the law? How do you read it?" He said in reply, "You shall love the Lord, your God, with all your heart, with all your being, with all your strength, and with all your mind, and your neighbor as yourself." He replied to him, "You have answered correctly; do this and you will live."

But because he wished to justify himself, he said to Jesus, "And who is my neighbor?" (*New American Bible, Luke 10:25-37*).

This exchange always sounds very familiar to me as a lawyer (27 years) and law professor (20 years). I can so easily imagine it taking place in a law school classroom or at an academic conference. Why does the legal scholar need to "justify" having asked Jesus a question? Perhaps because that particular question—"What must I do to inherit eternal life?"—is one that is already satisfactorily answered in the written law. Jesus' response, "What is written in the law?" is comparable to a

**Love
your
neighbor
as
yourself.**

professor in class telling the student to refer back to a treatise which sets out well-established principles or "black letter" law. (It's something of a reproof, suggesting that the questioner has not done his homework.) The questioner recites the "black letter law" here, and Jesus tells him the answer is correct.

If the legal scholar's question was really about "the black letter law"—the language of the rule itself—there would have been no need to inquire of Jesus, since the rule was "written in the law" and readily accessible. Indeed, since the black letter law was on such an

**Go and do likewise,
eventually we
will all
become neighbors.**

important subject ("what...[to] do to inherit eternal life") any competent scholar of the law would already know it. The questioner thus needs to "justify" his question by showing that he was fully aware of the "black letter law;" his question to Jesus was rather a more sophisticated one about the interpretation or "application" of the rule.

The questioner accepts that he has a duty to love his "neighbor," but asks for a clear definition of that term. Such a definition is critical, since eternal life is at stake. The scholar wants to make sure that he does not fail to fulfill his duty to anyone whom the law regards as his "neighbor." A good definition will have the additional benefit of avoiding giving love unnecessarily to "non-neighbors." While a non-lawyer in a generous mood might say, "Oh what the heck. Let's just love everybody, neighbor or not!" such reasoning is utterly foreign to a legal scholar. As a good lawyer, therefore, the questioner was probably hoping for a helpful definition

like: "someone who lives in your village, or belongs to your tribe, or shares your nationality or religion." Jesus, however, does not cooperate. Rather than define "neighbor" he tells the familiar story of the Good Samaritan.

Jesus replied, "A man fell victim to robbers as he went down from Jerusalem to Jericho. They stripped him and beat him and went off leaving him half-dead. A priest happened to be going down that road, but when he saw him he passed by on the opposite side. Likewise a Levite came to the place, and when he saw him, he passed by on the opposite side. But a Samaritan traveler who came upon him was moved with compassion at the sight. He approached the victim, poured oil and wine over his wounds and bandaged them. Then he lifted him up on his own animal, took him to an inn and cared for him. The next day, he took out two silver coins and gave them to the innkeeper with the instruction, 'Take care of him. If you spend more than what I have given you, I shall repay you on my way back.' Which of these three, in your opinion, was neighbor to the robbers' victim?" He answered, "The one who treated him with mercy." Jesus said to him "Go and do likewise."

Yet although the Samaritan and the victim had no previous relationship, and may not meet again, because of the Samaritan's act, they have become "neighbors."

Jesus asks the questioner, "Which...was neighbor to the robbers' victim?" The scholar replies, "The one who treated him with mercy." This is different from "the one who did his duty." Jesus has changed the issue from, "Who is my neighbor (that is: Whom must I care for?)" to "How do I show myself to be a neighbor?"

"Neighbor" is not a limited category of those who are entitled to our love. It is a potentially limitless category in which we by our actions can earn membership. If we all follow the injunction, "Go and do likewise," eventually we will all become neighbors.

[Prof. Costello's chapter draws an analogy between neighbor concept and the "full integration mandate" of the ADA. Professor Costello concludes: "In passing the ADA, Congress intended to correct society's tendency 'to isolate and segregate individuals with disabilities,' and recognized that 'despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem.' To correct this injustice, Congress established a right to full integration in the

The full integration mandate of the ADA gives disabled individuals the right to assistance.

Jesus does not say, "What a terrific lawyer the Samaritan was. He looked at the victim and realized that this was a neighbor from his home town. He realized that he had a duty to care for this neighbor, and so did his duty." The parable describes the victim merely as "a man," giving no suggestion about whose "neighbor" he might be. The priest and Levite of course know the "black letter law" and presumably would have stopped to rescue a "neighbor" to whom they owed a duty of care. Since they did not stop, perhaps it was because they identified the victim as a "non-neighbor."

By contrast, the Samaritan stops and cares for the victim, not because he recognizes and fulfills a legal duty, but because he is "moved with compassion at the sight." The Samaritan acts, not out of duty but in response to the victim's need. The parable makes it clear that the Samaritan did not expect to see the wounded man again. He was on his way to Jerusalem and told the innkeeper he'd pay any additional expenses incurred in caring for the victim on his way back.

community. Using this mandate, people with mental and physical disabilities have begun to receive the treatment or habilitation services they need to reclaim their place in the community. The full integration mandate of the ADA gives disabled individuals the right to assistance, enabling them to live and function in the community. It does not condition that right to assistance on disabled persons giving up their liberty and accepting institutional confinement. It does not restrict entitlement to services from the state to disabled persons who are in a special relationship of total dependence. It declares an end to segregating people with disabilities from 'normal' society: it recognizes that people with disabilities are in fact part of society. They are our neighbors."] ♦

Jan C. Costello, professor, joined the Loyola Law School faculty in 1983, and served as associate dean for academic affairs from 1987-90. She teaches Children and the Law, Family Law, Marital Property, Legal Process, and Mental Disability Law.

The Hearsay Rule and the Confrontation Clause:

The Supreme Court
Takes An Uncertain Turn

By David P. Leonard, Professor of Law

"In all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him." – United States Constitution, Amendment VI

While being questioned in connection with an attempted murder, Sylvia Crawford makes self-incriminating remarks and provides detailed information about the participation of Michael, her husband, in the crime. Ultimately, Michael is charged. When Sylvia refuses to testify against Michael, the prosecution offers in evidence Sylvia's signed statement given to the police. After the court overrules Michael's hearsay objection (holding that the statement is admissible as a declaration against self-interest), Michael turns to the Constitution, arguing that admission of the statement would violate his right "to be confronted with the witnesses against him." In its 2004 decision in *Crawford v. Washington*,¹ the Supreme Court, with Justice Scalia writing for a majority of seven, held that the trial court should have sustained Michael's confrontation objection because Sylvia's statement was categorically inadmissible against him.

Crawford is a remarkable decision. After decades of indecision about the meaning of the Confrontation Clause, the Supreme Court has begun to draw clear lines. It seems likely that before long, the Court will adopt a test for all cases involving the admission of hearsay evidence against a criminal defendant.

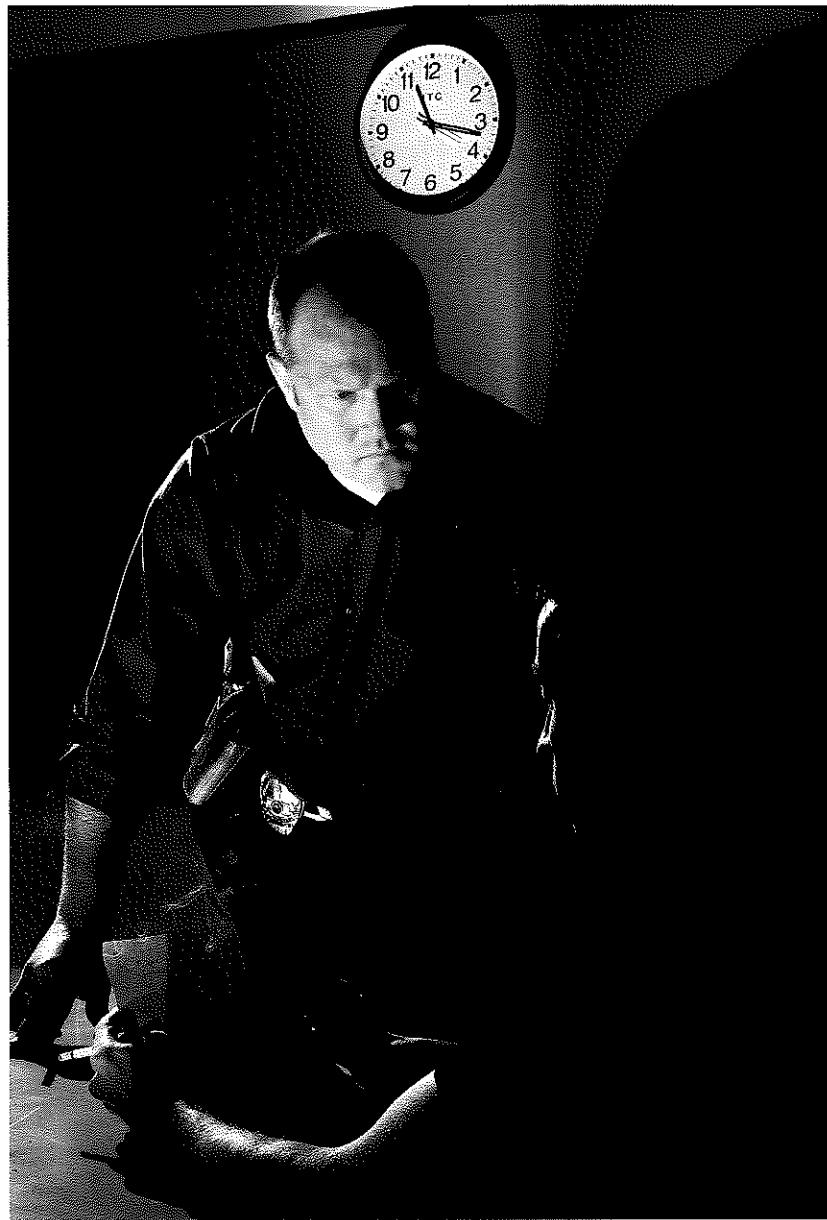
A LONG AND WINDING ROAD

The framers of the Bill of Rights did not create the right of confrontation out of whole cloth. As Wright and Graham explain,² its roots lie deep in English and Colonial history. As early as the 16th century, criminal defendants argued for the right to face their accusers. And after a controversial series of treason trials in that century, Parliament began to enact rudimentary protections for criminal defendants even as the courts routinely tried defendants using sworn, written depositions of witnesses that were simply read at trial.

The pendulum began to swing dramatically in the defendants' favor with the trial of Sir Walter Raleigh, who in 1603 was charged with participating in a plot to overthrow King James I and install a Stuart in his place. Raleigh argued, without success, to have his primary accuser, who was imprisoned close by, brought before the court so he could question him directly.

The framers
of the Bill of Rights
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"If you proceed to condemn me by bare inferences, without an oath, without subscription, upon a paper accusation, you try me by the Spanish Inquisition," asserted Raleigh. "If my accuser were dead or abroad, it were something; but he liveth, and is in this very house. Consider, my Lords, it is not rare case for a man to be falsely accused; aye, and falsely condemned too." Raleigh was convicted and ultimately put



to death. By the end of the seventeenth century, however, and even as the English government devised new means of repression, the right of face-to-face confrontation had become established in English courts. Though the precise reasons for the rule are hard to pin down, it certainly emerged in part from the Puritan vision that "truth" is best learned through the exercise of the five senses, and that the presentation of prepared, written testimony deprives the jury of its best opportunity to discern truth.

**Public outrage
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In addition, public outrage over celebrated trials reflected a general sense of injustice in not requiring an accuser to face the accused. In the Colonies, similar considerations as well as deep distrust of judges and of English executive authority led to the solidification of confrontation well before the adoption of the Constitution and the Bill of Rights.

All the while, the hearsay rule was developing in English and American law. Designed primarily to prevent unreliable evidence from affecting the outcome of trials, the rule generally forbids the use of out-of-court statements to "prove the truth of the matter asserted."³ Had the hearsay rule been categorical, there would have been no inconsistency between it and the right of confrontation; they would have worked in tandem to protect both the reliability of outcomes and the moral legitimacy of the criminal justice system. But the hearsay rule has always had exceptions, and today there are more than 30 in federal and state law. How can the use of hearsay be squared with the criminal defendant's right of confrontation?

REJECTING THE EXTREMES

At least two extreme interpretations of the Confrontation Clause are possible. One would interpret the phrase "witnesses against" to mean any person whose statements

are offered against the accused. This would lead to a simple rule: The government would not be permitted to present hearsay evidence against the accused—at least, perhaps, unless the person who made the hearsay statement testifies. The Supreme Court has never adopted this position.

Another extreme position would interpret "witnesses against" to mean only persons who testify against the accused. This would lead to another simple rule: The defendant must be allowed to be present when any witnesses testify against her. (The right of cross-examination would also protect the accused, of course.) Justices Scalia and Thomas have argued repeatedly for such an interpretation,⁴ but the Court has never adopted it.

RELIABILITY BECOMES THE TOUCHSTONE

The more extreme interpretations of the Confrontation Clause have their flaws, but they have the virtue of using the text of the clause itself as the starting point. And a textual approach might lead the Court to an interpretation that accords with the historical and ethical heritage of the confrontation right. Instead, through several decades, rather than giving separate meaning to the values supporting confrontation, the Court's jurisprudence went a long way toward equating the policies supporting the hearsay rule with those supporting confrontation. Both, the Court seemed to be saying, are concerned overwhelmingly with ensuring the *reliability* of evidence offered against an accused. Other considerations that underlie the confrontation right virtually disappeared from the Court's decisions.

In *Ohio v. Roberts*,⁵ the Court held that hearsay evidence offered against an accused (and which satisfies a hearsay exception) is "usually" only admissible if the prosecution produces the declarant or demonstrates her unavailability. Second, the evidence must have "adequate indicia of reliability." Reliability, the Court held, could be shown in one of two ways: If the evidence fits within a "firmly rooted" hearsay exception, it is presumptively reliable. If the exception under which the evidence is admitted is not "firmly rooted," the evidence is only admissible against the accused if the prosecution demonstrates "adequate indicia of reliability."

**At least two
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are possible.**

Over the next quarter century, the Court revised and refined the *Roberts* test. Unavailability would no longer be required for hearsay statements made in contexts that make them particularly reliable and that cannot be replicated by requiring the prosecution to produce or demonstrate the unavailability of the declarant. (Co-conspirator statements are the best example. Because they are made during and in furtherance of a conspiracy, their reliability is enhanced.⁶ Former testimony, on the other hand, is no more reliable than the in-court testimony of an available declarant.)

The Court also held that in determining whether there are “adequate indicia of reliability,” the trial court may only consider the circumstances surrounding the making of the statement, and not the existence of evidence corroborating its accuracy.⁷ And the Court explored the meaning of “firmly rooted,” ultimately appearing to adopt the position that long-recognized and widely accepted exceptions qualify because statements “falling within that category of hearsay inherently ‘carr[y] special guarantees of credibility’ essentially equivalent to, or greater than, those produced by the Constitution’s preference for cross-examined trial testimony.”⁸

Throughout this line of cases, then, the assurance of reliability was the driving force.

she admitted leading her husband to the man’s apartment, facilitating the assault. Over Michael’s confrontation objection, the court allowed the prosecution to play for the jury the tape of Sylvia’s statement.

The Supreme Court held that admission of Sylvia’s statement violated Michael’s confrontation rights. Writing for a seven-member majority, Justice Scalia reviewed the history of the confrontation right, noting that “the principal evil at which the Confrontation Clause was directed was the civil-law mode of criminal procedure, and particularly its use of *ex parte* examinations as evidence against the accused.” He then rejected the extreme position that the Confrontation Clause applies only to witnesses presented at trial. Significantly, he also rejected the claim that the hearsay rule sufficiently protects the accused, writing that “[l]eaving the regulation of out-of-court statements to the law of evidence would render the Confrontation Clause powerless to prevent even the most flagrant inquisitorial practices.”

Thus, more is at stake than the concerns underlying the hearsay rule. But the framers did not intend to exclude all hearsay. Rather, Scalia wrote, the framers were concerned with “testimonial” hearsay, a category he declined to define specifically, but that includes “at a minimum...prior testimony

Justices Scalia and Thomas have argued repeatedly for such an interpretation, but the Court has never adopted it.

THE COURT TAKES A SHARP TURN IN *CRAWFORD*

With its decision in *Crawford*, the Court has reclaimed some of the ground that distinguished the heritage of the Confrontation Clause from that of the hearsay rule. Michael Crawford was charged with assault and attempted murder of a man he believed had tried to rape his wife, Sylvia. The police interrogated Michael and Sylvia, and took tape-recorded statements from each. Crawford’s statement set forth facts supporting a self-defense claim, while Sylvia’s statement provided much weaker support for that claim. Sylvia did not testify at trial because of Washington’s adverse spousal testimony privilege, but the privilege does not apply to statements that satisfy a hearsay exception. Sylvia’s statement met the requirements of the declaration against interest exception because in it

at a preliminary hearing, before a grand jury or at a former trial; and to police interrogations.” And “the Framers would not have allowed admission of testimonial statements of a witness who did not appear at trial unless he was unavailable to testify, and the defendant had a prior opportunity for cross-examination.” Thus, the Court established a bright-line rule for “testimonial” hearsay offered against a criminal defendant: Such hearsay is only admissible if (1) the declarant testifies at trial or is unavailable *and* (2) the defendant had a prior opportunity to cross-examine the declarant. By so holding, the Court abolished the *Roberts* test in cases of “testimonial” hearsay. Under *Roberts*, trustworthy hearsay could be admitted where the declarant was unavailable, even if the hearsay was testimonial. After *Crawford*, even what appears to be highly trustworthy hearsay does not satisfy the Confrontation Clause. As Scalia’s opinion

states, "[D]ispensing with confrontation because testimony is obviously reliable is akin to dispensing with jury trial because a defendant is obviously guilty."

Though its precise reach is not yet clear, *Crawford* certainly renders grand jury testimony inadmissible against the accused because it is not subject to cross-examination. For the same reason, statements of individuals other than the accused, made during police interrogation, will not be admissible against the accused. *Crawford* also casts doubt on the validity of state child-hearsay exceptions, at least to the extent the child's statement is "testimonial," because it was made formally during police questioning. But such things as preliminary hearing testimony, which the defendant had an opportunity to cross-examine, will not be affected by the Court's new rule.

CRAWFORD'S SCOPE AND THE FUTURE OF CONFRONTATION

Left open in *Crawford* was the extent to which the Confrontation Clause applies to the large category of "non-testimonial" hearsay. Will evidence admitted pursuant to "firmly rooted" hearsay exceptions, such as excited utterances, present sense impressions, and dying declarations, be admissible against an accused? When hearsay is not "testimonial," *Crawford* strongly suggests (albeit *in dictum*) that the Confrontation Clause does not apply at all, and that the only barrier to admission is the hearsay rule. Therein lies the other side of a decision protective of the rights of the accused. Perhaps this was a hidden *quid pro quo* in *Crawford*; the Court categorically excludes "testimonial" hearsay offered against an accused, but prepares to hold, in a future case, that the Confrontation Clause is simply inapplicable to other hearsay.

If that is the result the Court has in mind, it will be most unfortunate. In *Crawford*, the Court made a wise decision to re-focus confrontation analysis on values in addition to reliability. Those values are served by excluding not only "testimonial" hearsay offered against an accused, but a good deal of "non-testimonial" hearsay as well. Though the evil of "trial by affidavit" is not explicitly implicated when the prosecution calls live witnesses to recount the out-of-court statements of others or themselves, a good deal of mischief can be done by prosecutors who call witnesses with no knowledge of the facts but who simply repeat the statements of others (even when such statements satisfy a hearsay exception). As it considers the next step in the evolution of confrontation jurisprudence, the Court would be wise not to foreclose all confrontation inquiry on the "non-testimonial" side of its new dividing line between types of hearsay. ❖

The Court
made a wise
decision to re-focus
confrontation analysis
on values in addition
to reliability.

¹ 124 S. Ct. 1354 (2004).

² 30-30A Charles A. Wright & Kenneth W. Graham, *Federal Practice and Procedure: Evidence* (1997 & 2000).

³ See Fed. R. Evid. 801(c) (defining hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted").

⁴ *White v. Illinois*, 502 U.S. 346, 365 (1992) (Thomas, J., dissenting).

⁵ 448 U.S. 56 (1980).

⁶ See *United States v. Inadi*, 475 U.S. 387 (1986).

⁷ See *Idaho v. Wright*, 497 U.S. 805 (1990).

⁸ *Lilly v. Virginia*, 527 U.S. 116 (1999), quoting *White v. Illinois*, 502 U.S. 346, 356 (1992).

David P. Leonard, professor and William M. Rains fellow, joined the Loyola Law School faculty in 1990. He teaches Advanced Evidence Seminar, Evidence and Torts.

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November 18-20, 2004

L A W S U I T

Barbie

By Christine Steiner, Adjunct Professor of Law

This article originally appeared as an Op-Ed piece, Los Angeles Times, January 7, 2004.

Although it was titled "Food Chain Barbie," the photographic series by Utah artist Tom Forsythe was not exactly appetizing: "Malted Barbie" featured a nude Barbie in a blender. "Fondue a la Barbie" depicted Barbie heads in a fondue pot. "Barbie Enchiladas" showed several Barbie dolls swaddled in tortillas and roasting in an oven.

Mattel, the company that has been making Barbie for 45 years, was, not surprisingly, displeased by these images, and sued, arguing that the public would mistake these exaggerated and suggestive images for authentic Mattel products, thus diluting or diminishing the commercial value of their property.

But recently, artists everywhere had reason to celebrate, when the Ninth Circuit Court of Appeals ruled against Mattel, saying that Forsythe's photographs were parodies of the iconic plastic doll and contained messages about gender roles and consumerism. As such, the photographs were legitimate free speech and did not infringe on Mattel's copyright or trademark rights.

The decision is important because over-aggressive enforcement of intellectual property rights is destructive to the free exchange of ideas in a democracy. The rights of toymakers and others to profit from their original work must of course be protected. But at the same time, courts must, as the Ninth Circuit did here, balance legitimate property rights against constitutional rights of free expression.

The tension between these rights is not new. Historically, the First Amendment has been used to ensure that particular venues remain open to free expression—venues such as public squares, broadcast channels, books, newspapers, and, most recently, cyberspace. Intellectual property law, in contrast, is concerned with safeguarding an owner's property rights, and with limiting the unregulated taking of copyrighted and trademarked properties.

Copyright infringement occurs when a creative work is copied or used without permission. Trademark protects commercial products or services, and infringement occurs when a trademark is used without permission and causes a likelihood of confusion between the trademarked product and the unauthorized one.

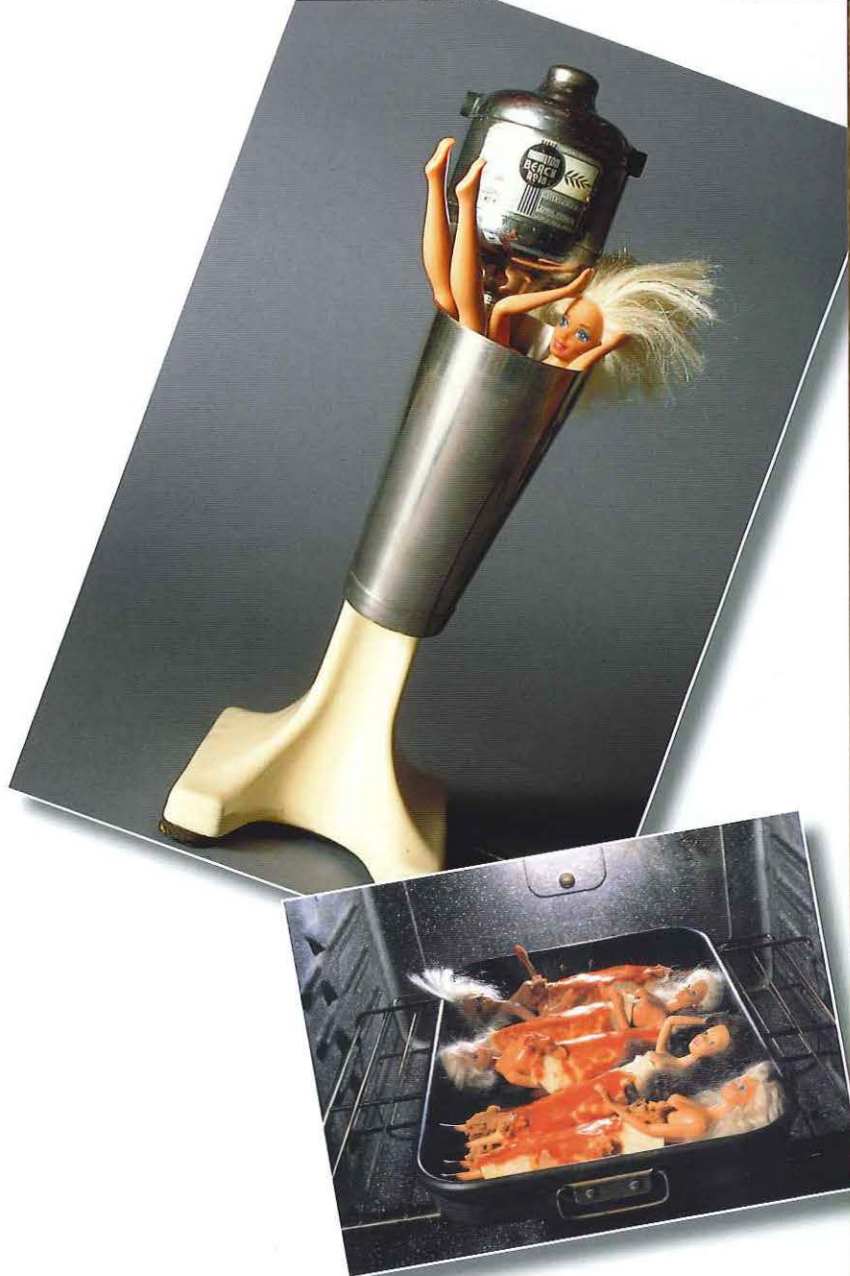
But there is such a thing as “fair use” which permits a user to “take” copyrighted or trademarked materials where the use is in the public interest. The “fair use” doctrine recognizes that new works draw inspiration from older works and that productive use of older works promotes the progress of science, the arts, and literature.

The Copyright Act identifies these uses as criticism, comment, news reporting, teaching, scholarship, and research; and courts have recognized other uses, such as parody, free speech, free expression, and the public good. For example, quoting portions of books or letters, copying images for study purposes, or running copyrighted footage on the evening news would all be considered fair.

The law identifies a four-factor analysis to aid in determining what constitutes a “fair use:” the purpose and character of the use, the nature of the underlying work, the amount taken, and the potential market effect. Thus, the Supreme Court upheld the rap group 2 Live Crew's parody of Roy Orbison's “Oh Pretty Woman” because the audience was different, the new song transformed the old with new meaning, and the market effect was determined to be nil.

By applying these factors, the Ninth Circuit determined that the “Food Chain Barbie” series was a legitimate parody. Forsythe transformed the meaning and intent of the Barbie doll into new and different work. Consumers, in other words, were not likely to confuse naked Barbie in a blender with an authorized Mattel product.

The Ninth Circuit decision is another in a string of cases that have found against the toymaker. For example, last January, the Supreme Court upheld the right of the Danish band Aqua to distribute its 1997 song “Barbie Girl,” whose lyrics refer to a “blond, bimbo girl.” But the company persisted in using the law to intimidate artists.



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were not likely to confuse
naked Barbie in a blender with
an authorized Mattel product.**

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Forsythe's legal fees (which may now be reimbursed) were in the millions of dollars— more than many artists can afford.

Forsythe's legal fees (which may now be reimbursed) were in the millions of dollars—more than many artists can afford. The chilling effect of these monetary considerations cannot be underestimated.

Possibly Mattel is so aggressive in marking its territory because it reasons that the product must be saved from all unauthorized activity that might dilute its uniqueness. But it is common sense that a corporate citizen need not cudgel every trespasser to avoid risking loss of intellectual property rights.

In the commercial marketplace and the marketplace of ideas, property rights are balanced against free expression rights. It is time to play fair in the Barbie Dreamhouse. ❖

Christine Steiner practices and teaches visual arts law in Los Angeles. She served as in-house counsel to the J. Paul Getty Trust and the Smithsonian Institution.

UPDATE: to Lawsuit Barbie article. After the Ninth Circuit Court of Appeals upheld the decision against Mattel Inc., a three-judge panel directed U.S. District Judge Ronald S.W. Lew to reconsider the matter of legal fees. On June 21, 2004, Judge Lew ruled that Mattel must pay more than \$1.8 million in fees and court costs to the controversial artist. In his ruling, Judge Lew noted that Mattel "had access to sophisticated counsel who could have determined that such a suit was objectively unreasonable and frivolous." Additionally, because Mattel's copyright claims were "unreasonable," the situation was appropriate to "award attorneys fees to deter this type of litigation which contravenes the intent of the Copyright Act." The ruling may make corporations rethink their litigation strategy. "I couldn't have asked for a better result," said Forsythe, "This should set a new standard for the ability to critique brands that are pervasive in our culture."



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Alumni

[Profiles]

Walter F. Ulloa '74 Riding High on a Hunch



Walter F. Ulloa is chairman and chief executive officer of Entravision Communications, a Spanish-language media company that owns or operates almost 100 television and radio stations across the United States.

Walter Ulloa was born into a family that values education. His father was the first Mexican American CPA in the state of California.

"He certainly was an inspiration to me and my brothers," Ulloa says. "Both my father and mother had great aspirations for us and made education the main theme at home. They told us that to achieve any kind of success in this country we had to be as educated as possible."

After graduating from the University of Southern California and Loyola Law School, Ulloa took a job working part-time writing editorials for the general manager at a small Los Angeles UHF Spanish language television station, KMEX, which at the time was known primarily to the few people who were able to receive the signal. That assignment led to his being named news director of the fledgling station. While there, he learned every aspect of the television business and produced newscasts that engaged and informed the community.

At the time, Ulloa says, he was intrigued by the tremendous growth potential of the Hispanic market.

"Thirty years ago I was reading demographic breakdowns and thought if those numbers held or were even close to being correct the Latino market was on the verge of becoming a huge economic force." His hunch was right on the money. With partners,

Ulloa started buying media outlets in order to reach this traditionally underserved audience.

Today, his Entravision Communications owns and/or operates 42 television stations across the country and is the largest group owner of Univision and Telefutura affiliates. Entravision also owns 57 radio stations nationwide, and more than 10,900 advertising billboards in Los Angeles and New York.

Ulloa says he is most proud of his local newscasts, and this time around he's not the only person watching. In the majority of its markets, Entravision's local newscast is the number one or two rated program in any language.

"When I started in the business of owning television stations, news was to me the most important building block to success," Ulloa explains. "In many ways I always thought of KMEX and the local news as a beacon for the Hispanic community. I was astonished at the power that broadcast had and saw first-hand how it could mobilize a community and how people would respond in numbers that nobody anticipated. I never got over that. And I see that today in all of our markets. It's the power of news. It's such an important piece of content. You educate, entertain and enlighten people by giving them knowledge. We take pride in our local news coverage. We spend a lot of time and money on it. I personally take that responsibility very seriously." ♦



Mary Bennett '76, John Denove '76 and Wilke Cheong '76

Trailblazers

About a half dozen weekends each year, Jack Denove, Mary Bennett, and Wilkie Cheong can be seen trail riding, cow cutting, team penning, and sorting in full cowboy gear along with 30 or 40 of their closest friends. No, they're not auditioning for some crazy reality TV show; they are original members of the Cowboy Lawyers Association, and they agree: Trail riding with friends and family and horse ownership offer them the ultimate in relaxation.

"This is everybody's great escape," says Bennett, who estimates the group currently has more than 100 active participants. By no coincidence, all are lawyers and judges. The association is comprised of law professionals and retirees who love horses, the Old West, and being surrounded by the tranquil peace of the great outdoors. They hold three overnight rides and three day rides each year. Day rides usually end with a huge barbecue, but the group has been known to saddle their ponies and ride to a local Mexican restaurant instead.

"When 40 or 50 lawyers and judges are riding down the street on horseback, let me tell you, it stops traffic. It's not something you see every day," laughs Bennett.

She says that nothing beats the quality time spent with family, friends, and man's other best friend. "I was born loving horses. I think we all were. And I can't think of a better or more tranquil way to spend time away from the office. You're in a whole different world when you're on the back

"You do a radio show for a lark?" Duff Murphy was once asked by a listener of his Saturday morning *The Opera Show* on KUSC (91.5 FM), who had just found out Murphy can be heard during the week as a trial lawyer. Truth is, Murphy brings the same passion and commitment to this part-time job as he does to that as a partner at California's premier eminent domain law firm, Oliver, Vose, Sandifer, Murphy & Lee. And he's been at it longer.

Murphy enrolled at Hastings Law School in 1977, but left after a couple of weeks. "It wasn't the right time and place for me," he says. Back in Los Angeles, where he had attended USC as a political theory major, Murphy was determined to discover a career that was right for him. He found two.



James "Duff" Murphy '82

Classical Escape

Murphy's childhood love of classical music had been reinforced while at USC through his friendship with several students at USC's top-flight music school. So when the opportunity arose to take over KPCC's opera show in 1979, Murphy jumped at it.

While hearing his USC music friends operatically sing the national anthem in an amusing, operatic style at football games was not Murphy's *only* exposure to opera prior to taking over the KPCC show, his classical music interest had centered on piano-based works. Murphy learned on the job.

Continued on page 87

Continued on page 87

Alumni [Profiles]



Jerold H. Rubinstein '65
The Music Man

Alumnus Jerold H. Rubinstein has mastered the art of letting go—somewhat. Rubinstein, a guest speaker at Loyola Law School's Entertainment Law Luncheon in May 2004, shared his expertise, which began in the late 1960s as a business manager for such recording artists as Joni Mitchell and Neil Young, and for a young talent manager—David Geffen. In 1975 he was tapped to run pop music outlet, ABC Dunhill Records. Three years later he and a partner acquired the motion picture soundtrack label United Artists Records. A year later they merged it with Liberty Records and sold the package to British conglomerate EMI.

Rubinstein, a former director of the Recording Industry Association of America, has made a career out of expanding and improving labels and then letting them go—for a profit, of course.

"I never start off with the desire to sell a company," says Rubinstein, who once worked as a certified accountant. "I enjoy creating a business and getting it to a point where it isn't a management nightmare. I don't mind selling it as long as I can do something else."

Continued on page 87

Tracy K. Rice was in the right place at the right time when destiny called and she was sent at the last minute to pick up an award honoree at the airport. That chance meeting eventually led to Rice being personally appointed by the Reverend Jesse Jackson to open up a Los Angeles office for Rainbow/PUSH Coalition, the civil rights organization he founded, which oversees a myriad of social issues for the nation's poor and disenfranchised.

Rev. Jackson was being honored by Death Penalty Focus, for which Tracy serves as vice president of the board of directors. On the ride to the event, Rice and Jackson struck up a conversation that continued on the trip back to the airport. Jackson liked what he heard and on his frequent trips to the West Coast made a habit of asking Rice to put together various projects for him. Eventually, he asked her to open up a Los Angeles office for him. She jumped at the chance.

The assignment was right up her alley. "I went to law school wanting to work for the ACLU. That was my dream job," Rice says. A first-year law school internship at the ACLU turned into a six-year job which ultimately led to her opening her own practice. Rice specializes in cases involving access to education, disability rights, children's rights and prisoner's rights—not surprisingly, many of the same causes Rainbow/PUSH fights for.



Tracy K. Rice '88
Career Built on Destiny

She currently maintains "of counsel" status with the ACLU Foundation of Southern California and remains counsel on one death penalty appeal now in Federal Court.

Born and raised in Kansas City, Missouri, Rice graduated from Kansas University in 1981. Since leaving Loyola Law School and passing the Bar in 1988, Rice has carved a

Continued on page 88

Some people might find the idea of working closely with family members every day a bit stifling, but Beverly A. Williams has thrived having her family close by. Not only has she shared an Inglewood, California office building with her orthodontist husband Harvey for more than two decades, but about 12 years ago her three adult daughters also joined the business arena to make it truly a family affair.

A successful attorney in practice for more than 25 years, Beverly A. Williams is also the co-founder—along with her daughters—and chief executive officer of Angel City Multimedia, which began in 1991 as a record company to distribute recordings featuring her daughters' vocal artist group, Nik-Tash-Ta. Most busy lawyers would have just farmed out the record contracts to an entertainment law firm and hoped for the best, but not Williams. Rather than risk loss of artists' rights, she learned the complicated process and made sure her daughters got the best deal possible. That led Williams to start her own independent record label and sign other clients who valued her keen ability to nurture and represent talent fairly.



Beverly A. Williams '75

A Family Affair

In 1999, Angel City expanded into a fully e-commerce-enabled and lucrative Internet domain, featuring luxury gift items, web page design and an entertainment magazine. Today, Angel City Website Designs is the dominant revenue builder.

A Washington, D.C. native, Williams completed undergraduate studies at Howard University with a bachelor of arts degree in business management and economics. She was the first woman from Loyola Law School to receive the Judge William P. Hogoboom Jurisprudence Award for outstanding performance in trial advocacy. Her legal expertise runs the gamut of the entertainment business, specializing in transactional matters with an emphasis on trademark and copyright. She handles contract preparation and negotiations for fine artists, singer/songwriters, music production companies, and film and TV talent, and now book publishing.

When her husband Harvey isn't applying braces, he hits the road for book signings of his latest novel, *The Ambassador's Daughter*, a book

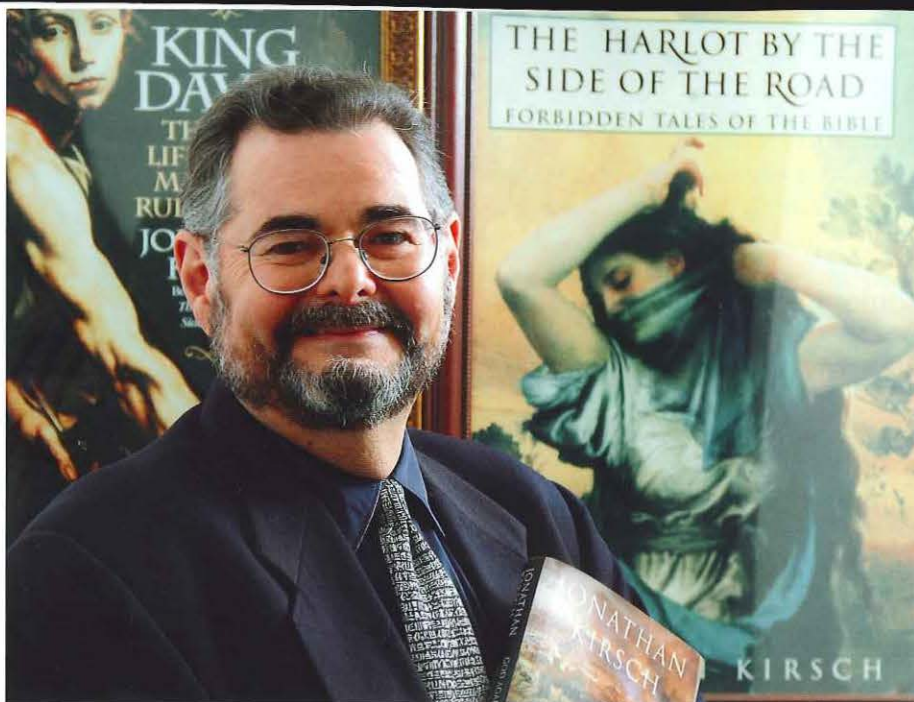
published by Stingray Publishing, another family-owned company. Williams at times accompanies her husband, providing book signing audiences the added attraction of publishing and copyright presentations.

For years, Williams has successfully balanced family, career, friends, and faith, and even found time for *pro bono* work and membership in numerous legal associations. It is not surprising that she says time management is critical to a lawyer's success.

"There have been many hurdles I learned to overcome. Yet my greatest challenge was time management," says Williams. "The more you juggle, the more likely something will fall through the cracks. Your clients expect you to give 100 percent. If they sense they are a low priority, they will take their business someplace else. What is not different today from when I started over 25 years ago is that competent preparation, clear client and colleague communication, and respect for your profession will carry your firm's reputation to the next referral and satisfied client." ♦

Alumni [Profiles]

Don't tell Jonathan Kirsch there are only 24 hours in a day. Aside from specializing in publishing and intellectual property law in his Los Angeles-based practice, the attorney is also the author of ten books. His latest, *God Against the Gods: The History of the War Between Monotheism and Polytheism*, was issued earlier this year, received excellent critical notices and appeared on several best-seller lists. For many, that kind of literary success in addition to a full-time law practice would be daunting, but Kirsch has made a habit of making every minute in his day count. The responsibility of doing the usual assortment of press interviews and book signings just adds to his already too long to-do list.



Jonathan L. Kirsch '76

Passionate About Writing

Author Jonathan L. Kirsch is a regular book columnist for the *Los Angeles Times*, a frequent guest commentator for National Public Radio affiliates KCRW-FM and KPCC-FM in Southern California, and an adjunct professor at New York University. Kirsch often hits the lecture circuit and consults widely on biblical, literary, and legal topics.

"I do all of those extra things by stealing time from myself," Kirsch explains. "I'm always juggling more things than I can do, so I write in the nooks and crannies of my law practice. Others steal time to get prime tee times, I choose to write. When you love something, you find time to do it."

Though he has written several best-selling handbooks and guides devoted to publishing law, his literary attention has focused primarily on the history of religion. "There is a whole genre of books in the field of religion and spirituality. It's very lively writing and it has a very broad readership." And, he says, he has a vocal fan base. Unlike other authors who have the

luxury of being recluses, Kirsch is always available by e-mail and phone by virtue of his law practice.

"I hear from people every day who have read my books," Kirsch says. "There's nothing that gives you greater pleasure as a writer than to connect with a reader who's interested and provoked by your work. There's nothing else like it."

Before embarking on the practice of law, Kirsch was senior editor of *California Magazine* (formerly *New West Magazine*), where he specialized in coverage of law, government, and politics. Previously, he worked as West Coast correspondent for *Newsweek*, an editor for *West* and *Home* magazines, at the *Los Angeles Times*, and as a reporter for the *Santa Cruz Sentinel*.

Equally passionate about his "day job," Kirsch tells new lawyers, "You have to care about the practice of law and enjoy it. It really has to matter to you to do a good job for your client. You can't teach someone to care. To be successful you have to find a passion for everything you do." ♦

Judge Joseph DiLoreto lives his life in the fast lane. A race car enthusiast from a young age, he has collected and raced vintage cars most of his life.

I've been interested in things that go fast as long as I can remember," says Judge Joseph DiLoreto. "When I was in high school I used to race speedboats. Out of college, my first brand new car was an Austin Healy sports car."

Years later, DiLoreto still has the need for speed and races eight or nine times a year. "If you love speed there is a terrific charge in racing. It's such an adrenaline rush," he enthuses.

DiLoreto says that some races last five or six hours, but at any length, a speed race requires total concentration.

"It's not like running a marathon, where your mind can wander," he explains. "When you're on a racetrack racing, you're not really cognizant of much of your environment. You are focused on where you are on the track, where the next corner is, when you have to brake, where you are going to shift, and where your competition is. And you do that at every corner. A normal racetrack I run will have nine to 23 corners, so you're constantly braking and shifting. You're really busy the whole time." His cars have clocked upwards of 200 m.p.h. during some races.

"There is a big difference between driving 80 m.p.h. down a freeway and hitting 190 m.p.h. on a speedway," DiLoreto points out. "You can cover

the length of a football field in about a second, so things come at you and around you very fast. You have to be on top of your game every second."

In his career he has had only two significant high-speed collisions, and luckily walked away from both. He has won over 100 races, and has a mantle full of awards to show for his death-defying feats.

During his free time, DiLoreto can be found elbowdeep in grease at his car



shop where he and his crew put love and care into his fleet of 20 vintage performance cars. His stable of vehicles includes mainly fast exotic cars like Ferraris, a 427 Ford Shelby Cobra, and a Type 33 Alfa Romeo he bought in Italy that won the world championship in 1975.

Honorable Joseph DiLoreto '66

Living Life in the Fast Lane



Born in Connecticut and raised in Compton, California, DiLoreto graduated from the University of Portland (Oregon) in 1963. Relocating to Downey, California, he worked for the Orange County District Attorney's office for three years before setting up his own civil practice. During his 27 years in private practice, he obtained many multimillion-dollar verdicts for his personal injury clients. He has always placed a high priority on community service. Aside from being on the board of directors of the Chamber of Commerce and the City Council, he served a term as mayor of Downey. DiLoreto married his high school sweetheart, Gloria, in 1975.

He was appointed by Governor Pete Wilson to the Superior Court in 1995. ♦

Wazhma Sultan graduated from Loyola Law School in May 2002, never imagining she would find herself living in Kabul and serving as the chief legal adviser to Sayed Mustafa Kazemi, Afghanistan's Minister of Commerce.



Wazhma Sultan '02

An International Connection

Wazhma Sultan is employed by BearingPoint (formerly KMPG Consulting), an international consulting firm, and is tasked to the Afghanistan Economic Governance Project funded by USAID. She is one of 50 international consultants (and one of two international lawyers) serving on the Economic Governance Project. Although engaged by BearingPoint (and indirectly by USAID), her role is to offer legal advice on the myriad of issues that confront the commerce minister. She has been responsible for conducting ministry review of various law reform initiatives (including new Afghan commercial, corporate,

and intellectual property laws), as well as various contracts between Afghanistan and private firms investing in the country.

"I felt comfortable reviewing the new corporations law," Sultan said. "Professor Therese Maynard had familiarized me with the many issues." Sultan also works on preparing Afghanistan for its eventual inclusion in the World Trade Organization.

Loyola international law Professor Jeffery Atik recently visited Sultan in her office in Kabul.

"I have never had a student go so far so fast—in every sense of the word," said Atik. "I was so impressed to see these Afghan politicians—who are not in the habit of taking advice from anyone—being so open and receptive to this young woman lawyer, an Afghan-American lawyer."

Sultan recalls being shocked and delighted when she was first approached by BearingPoint to work in Afghanistan. It was a return to a country she had left at the age of five. Though only a year out of law school when hired, she had strong background in international trade and speaks *dari* (Afghan Persian) fluently.

Q: What is it like for you working in Afghanistan?

Sultan: Working here is very challenging. It is also very satisfying, particularly when your client takes your advice. The Afghans have been most respectful even if unfamiliar with working with legal counsel. They tend to hang on to your every word. I work all the time, even on my off days. We have a six-day work week, and you find yourself working in the evening even when attending government and embassy events. There's a large foreign community here. I hadn't expected that. I've met wonderful and diverse people who work in the government agencies, foreign embassies, and non-government organizations.

Q: What has been your experience working with a high government official in a very troubled post-conflict country?

Sultan: It's been a really good experience. I get along very well with the minister. He is young and very friendly. We've developed a good working relationship. Minister Kazemi promotes women working and being active in politics in Afghanistan. At first I found it challenging working with him, as he speaks little English, so I had to translate

legal concepts and phrases into *dari*. It was also challenging because I am still at the beginning of my career, and he would often ask me things I didn't know. It took a while but I'm now able to admit that I don't know the answer but I will find out.

Q: How do you find the prospects for women in Afghanistan?

Sultan: Women have been leaders and entrepreneurs historically in Afghanistan. Thirty years ago there were many women doctors and lawyers. The current challenge is bringing that energy back. I believe the country's economic stability depends on the role of women; they are the key players. Many women have been granted

business licenses to operate their own businesses. There is a flowering artistic movement. Women are going to universities. Young girls are working instead of getting married. You see the changes: everyone has a mobile phone and access to the Internet. This is leading a political movement among young women.

Q: Do you have any advice for law students interested in international law and development?

Sultan: It's hard for me to give general advice because one of the reasons a door opened so early for me was due to my nationality. Others might need to gain expertise. I would certainly emphasize language skills. Be determined to go to a post-conflict area. You have to take risks. You need to go to areas people don't really want to be in. Being younger is an advantage for these postings because you can take the risk. As challenging as it is, it's not a hardship to live and work here. I find it very fulfilling to work with local staff and foreign expatriates who have done amazing things. There are many opportunities offered here, in some ways more than I would have been able to find in California. ❖



A fruit stand in central Kabul. Commerce in Kabul is flourishing.



Professor Jeffery Atik, with members of the Afghan National Army, outside the Ministry of Commerce in Kabul.



A yarn shop outside Kabul.

Persian Alumni Chapter Founded on Friendship and Partnership

Inseparable best friends Nick Ebrahimi and Joseph Lavi have known each other since they were nine years old. Ebrahimi says they knew their destiny was to go into business together with an emphasis on helping their fellow man.

"If we weren't lawyers we would probably be doctors or in the FBI or something that helps people," he says. "It's what we've dreamed of doing since we were kids in Iran."

Their families immigrated to the United States when the boys were teenagers. They completed their undergraduate work at UCLA and attended Loyola together. A year and half ago they formed their own firm, which specializes in employment and labor law, representing employees in wrongful termination, disability, and sexual harassment cases. They also volunteer countless hours dispensing free legal advice on a local Iranian-language radio station.

Says Ebrahimi, "If you had asked me 15 years ago if I thought we would have succeeded to this level, I probably would have said realistically 'no' because the odds were so against us. But it shows you that if you really focus on something in life and you work very hard at it, you're going to get it."

The friends' latest endeavor is the creation of the Loyola Law School Persian Alumni Chapter. "It will close the gap between the fast-growing number of Loyola Law School Persian graduates and the Persian-owned establishments," says Lavi. "It will inform and educate the business establishments about recent legal developments and how Loyola graduates can assist them."



NICK EBRAHIMI '01 AND JOSEPH LAVI '00



Steven C. Crosby '81 Not an Ordinary Talent

To land his current dream job at Seattle-based Vulcan Inc., Steven C. Crosby had to endure 28 separate interviews with company officials. That is perhaps because Vulcan is not an ordinary company. It is the brainchild of billionaire investor and philanthropist Paul G. Allen, co-founder of Microsoft. In his capacity as vice president of corporate communications, Crosby reports directly to Allen and oversees Vulcan's in-house marketing, PR, media relations, advertising, special events, promotions, community outreach, and government affairs teams.

The Vulcan umbrella includes many companies and charitable endeavors. Allen is the largest shareholder of both Dreamworks SKG and Charter Communications, the nation's third-largest cable company. Other Allen properties include the Seattle Seahawks and the Portland Trailblazers professional athletic teams.

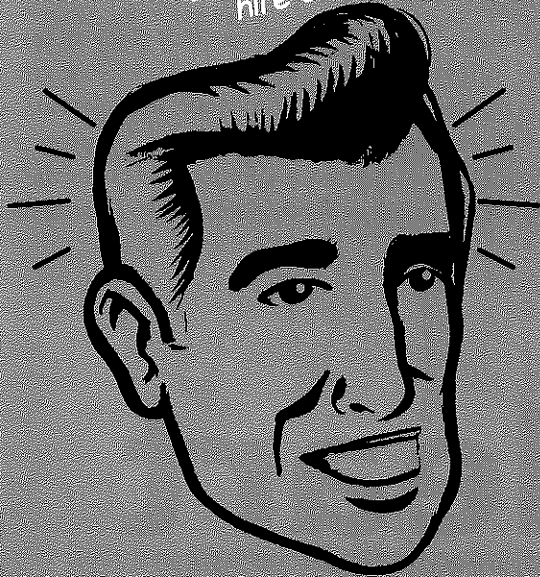
Right out of law school, Crosby researched areas that had tremendous growth potential. With Los Angeles International Airport getting a long overdue renovation and a lot of air traffic being diverted to alternate airports, he and a partner bought a soon-to-be lucrative aircraft refueling operation at Long Beach Airport. At the same time, Crosby became involved with the Coro Foundation, a non-profit group that offers internships in public policy and public affairs work. Through Coro, he interned with the Teamsters, a savings and loan, the Los Angeles County Firefighters labor unions, and for Republican Assemblyman Pat Nolan in Sacramento, Calif.

"Through these internship programs, I learned that the area I was really interested in was politics," says Crosby. "I also was fascinated with something called 'crisis communications.'" Crosby worked for Nolan and other Republican leaders in the State Assembly as a policy consultant/special assistant on issues pertaining to sports, entertainment, tourism, tobacco and alcohol. In 1989, he went to work for the California Forestry Association ("I knew

Continued on page 88

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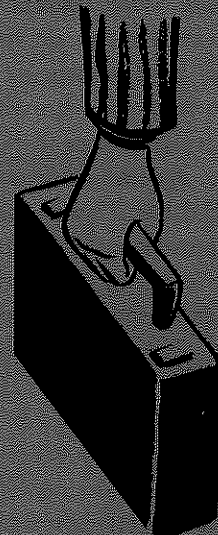
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Alumni

[Giving]

life, the idea of “rewarding” that institution comes with a measure of trepidation, reticence, even resistance. Law school was hard work.

Sometimes many years, and a lot of debt, have to pass away before one finally realizes that a legal education, earned at a great price, is precious. With time and maturity there often comes an understanding and appreciation of the importance of that legal training and of the law school itself in making possible a rewarding

career and a solid professional and personal life. Recognition of the true value of a law school education is more rational and intellectual than emotional. Only with that recognition do alumni begin to contribute significantly to their law school.

Even as the costs of private legal education soar (tuition at Loyola for 2004-05 will be \$29,000), tuition revenues alone cannot fully cover the cost. In order to support a distinguished

From the Head & the Heart

By Kenneth Ott, Assistant Dean, Advancement

During the course of fundraising over the past three years, Dean David Burcham '84 has come to understand and accept the adage about alumni giving: “When you give to your undergraduate college you give from the heart, but when you give to your law school you give from your head.”

The thinking is simple. When supporting your undergraduate college or university, you recall fond memories of a certain time in your life—growing up and experiencing independence, new friendships, sports weekends, and a vibrant social life. Those warm memories reach into your heart, and the inclination to support the school that helped provide them comes easily and emotionally.

On the other hand, when it comes to recalling law school and the years of pressure, competition, escalating debt, long study hours, and nearly no social



**Do it from the head
or from the heart.**

**The future of
Loyola Law School
depends on you.**

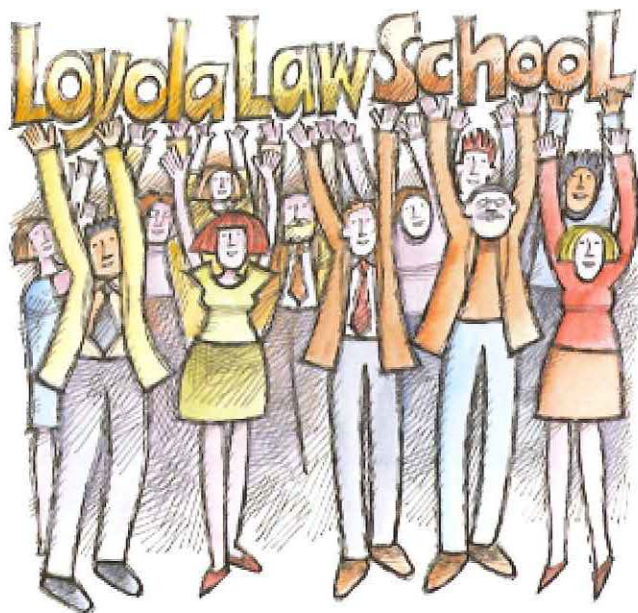
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Kenneth Ott, Assistant Dean, Advancement

faculty, a technologically advanced learning environment, library resources, and day-to-day operation of a modern campus, the contributions of alumni and other friends must fill the gap between tuition income and the actual cost of a law school education. Alumni play a pivotal role in helping to build their law school in resources and reputation. All great law schools are the result of involved, committed, and generous alumni.

The funding campaign that has been announced for Loyola Law School with \$40 million as its goal will need many more alumni giving both from the head *and* the heart.

We ask that each alumnus and alumna get involved, visit the campus, organize a class reunion, attend one of our many alumni events, or establish a scholarship, and, most importantly, show your support by sending a check as an annual sign of support. ❖



United, Loyal &

ACTIVE ALUMNI

A Law School's Greatest Resource

By Carmen Ramirez, Executive Director, Advancement

Loyola is on the move and gaining national recognition by its peers in the academic community and legal profession.

Propelling the Law School's reputation is the alumni body, which now numbers more than 12,000 persons across the United States and several U.S. territories, as well as in Afghanistan, Australia, Austria, Bahrain, Canada, China, Costa Rica, Czech Republic, France, Germany, Hong Kong, Hungary, Ireland, Israel, Japan, Mexico, New Zealand, South Africa, South Korea, Spain, Switzerland, Thailand and the United Kingdom. With so large and widely dispersed an alumni body, the staff of the alumni office easily keeps busy year-round.

As we gear up for the 2004-05 academic year, we encourage all alums to attend one of the many events scheduled throughout the year. These include an annual golf tournament, class reunions, regional luncheons and receptions, happy-hour gatherings, and seminars and lectures that feature prominent speakers. Alumni events foster camaraderie and provide excellent opportunities to network and earn MCLE credit.

Let us hear from you. Please send us your news for inclusion in the alumni newsletter, *Public Record*. Let us know if you joined a new firm or opened up your own practice. Have you prosecuted/defended a major case, or established a legal precedent? Have you taken up hot-air ballooning or drag racing? Do we have your current contact information?

Get involved, your participation makes a difference. Consider becoming a mentor. Share your experiences in the law with current students. After all, the saying goes, "Been there—done that," and who better than you to share some insight about getting through law school and facing the challenge of transitioning from classroom to courtroom? Assist the Law School in its efforts to recruit the best and brightest prospective students. Volunteer to be a judge for the moot court teams or simply make an annual donation to the Law School.

Alumni participation and support is invaluable to the Law School's effort to compete with peer institutions, attract

exceptional students, preserve the quality of faculty, enhance the curriculum and maintain the infrastructure. The greatest resource Loyola Law School can possess is the collective force of a united, loyal, and active alumni community. ❖

**Get
involved,
your
participation
makes
a difference.**

Visit the alumni web site
regularly at <http://alumni.lls.edu>
for a list of monthly events.

Random

Recollections

By Quintin "Bud" Ogren '50



Former Governor Gray Davis, prior to becoming Governor of California (l) with U.S. Senator from California John V. Tunney (c), and Bud Ogren (r) at a Loyola Law School event.

When Catholic servicemen returned to Los Angeles after World War I, it was rumored that some law schools barred their admission, and since there was no other law school around, Catholics had no way of becoming lawyers or judges. The Jesuits, who already had a small college here, St. Vincent's, broke the barrier. They established a law school, eventually known as Loyola, and young Father Joseph J. Donovan, S.J., was put in charge as Rector.

Thus, despite its creation as a Jesuit law school, the idea was not to impart a distinctively Catholic legal education (though a crucifix hung on every classroom); the idea was rather to offer a legal education on a par with the secular instruction provided by other law schools, a clarification I did not come to understand until the last decade of my 40 year association with the law school, first as a student (class of 1950), then as an adjunct professor (1952-59), and finally as a full-time faculty member (1960-86).

Roughly three out of four students in my class were there on the G.I. Bill, one of the most forward-looking statutes this or any other country has ever adopted. The post-war students were unusually mature scholars with no time to lose. More were in the evening division than in the day division, and two were young women.

Married, with three children and a demanding job with the National Labor Relations Board, I envied my unmarried classmate who worked as an all-night clerk at a Catholic mortuary in Beverly Hills, where the phone hardly ever interrupted his study. Our instruction was no-frills meat-and-potatoes stuff.

In my student years, Sayre Macneil was dean, and Sidney (Graybeal) Morgan was the entire staff. She was the secretary, admissions officer and registrar. Father Donovan knew us all by name ("Mr. Ogren"), and he was there with a gruff greeting in the lobby of the two-story Grand Avenue building morning, noon, and night. I recall Father's unusual response to my greeting—if I said "Good to see you, Father!" he would reply, "Good to be seen by you!"

Everybody's favorite professor was Walter H. Cook, a seemingly all-knowing no-nonsense instructor blessed with the disposition of Mr. Chips. Along with his wise yet amiable manner, he was said to have a photographic memory, and we believed he did; it was a trait that served him well

when he continued to teach for several years after he became blind not long after our class had graduated.

**The post-war
students were
unusually mature
scholars with
no time to lose.**

Professor John Ely taught us Wills, and at the break in the two-hour course a handful of us would gather on the fire escape just outside our classroom for a smoke. I recall a moment when we shared mild indignation over a deathbed will case where the testator signed "John Q. Testa....,"

Continued on page 88

For the next few minutes, wander the corridors of memory with me, to those hectic weeks before final exams during my first year at Loyola. As you know, it is a time of intense review, study group meetings, and something unique to law school; the chance to *legally* get your hands on essay tests used in prior years, just by asking the librarian. The exams—some of which went back years—were kept in a blue binder, handed to any student who needed them, and over to the photocopier you'd walk, deposit a few coins, and make your copies.

These tests gave first-year students a real glimpse of what a final exam looked like. The chance to study a real law school exam was of incredible value. I am sure that without that opportunity, many students would have done a lot worse on their finals.

I saw my study group friend, let's call him Steve, with his girlfriend, at the photocopy machine, making copies.

produced was unreadable and smeared, completely worthless. But Steve was dutifully copying all the first-year exams in the folder, helped by his girlfriend. She was lovely, with a sweet face that revealed little emotion as she and Steve replaced the clean originals in the binder with unreadable copies. The consequences of what they were

doing was sickeningly obvious. It went beyond cheating. It was immorality on a scale that could impact the entire first year class.

"How can you do this?" I asked them. "How can you help him do this to all his classmates? I have been to your apartment many times. How do



REPUTATION = SUCCESS

By H. Dennis Beaver '72

They lived together in a beautifully furnished apartment near the campus that was always well-stocked with great wine and expensive cheese and other goodies, courtesy—I was told—of his parents. During our one-hour study sessions, Steve said something that I thought was either twisted humor or a pretty poor reason to study law, "Once we pass the Bar, it will be a license to screw people over."

Earlier that day, I tried to make a few copies, but everything the machine

**It is one of
the most fragile
things we possess,
our reputation.**

you justify doing this to me and your friends in our study group?" I asked her in a tone of voice that did not exactly seek a reply. I said, "Don't you get it? The way he is treating others is *precisely* how he will treat you when, not if, but *when* things turn bad. Put the originals back now!"

We had studied cases about people who do precisely these kinds of things

Continued on page 88

Alumni

[& Campus Events]

THE Grand Reunion

April 28, 2004 - Wilshire Grand Hotel



◀ Nancy Sher Cohen '78 of Heller Ehrman White & McAuliffe in Los Angeles, and John D. Vandevle '75 of Lightfoot, Vandevle, Sadowsky, Medvene & Levine in Los Angeles were each presented with the 2004 **DISTINGUISHED ALUMNI AWARD**. The award is presented annually to graduates who have made substantial contributions to the legal profession, community and Loyola Law School.

▶ Allan Ides '79, professor of law and William M. Rains Fellow was presented with the 2004 **ST. THOMAS MORE MEDALLION** by Sean Michaels '04, president of the St. Thomas Law Honor Society.

Approximately 400 guests attended the Grand Reunion, held at the Wilshire Grand Hotel on the evening of April 28, 2004. Alumni, friends and faculty enjoyed an evening of camaraderie and networking. ▼



The 2004 **ALUMNI ASSOCIATION BOARD OF GOVERNORS RECOGNITION SERVICE AWARDS** were presented to three deserving graduates who have demonstrated outstanding service to Loyola Law School, the legal profession and the community at large. [l to r] Barbara Schwerin '87, Arthur Greenberg '76 and Cindy Lopez '85. ▼



◀ Jeleen Guttenberg '96, president of the Alumni Association Board of Governors for 2003-04 with the Honorable John V. Meigs '78, immediate past president and recipient of the **BOARD OF GOVERNOR'S PRESIDENTIAL APPRECIATION AWARD**.



◀ December Ceremony

Members of the dias at Loyola Law School's on-campus Swearing-In Ceremony for new attorneys, held on December 3, 2003, were [l to r]: Jeleen Guttenberg '96, president of the Alumni Association Board of Governors for 2003-04; Gary Williams, professor of law; David W. Burcham '84, Fritz B. Burns dean and professor of law; Robert B. Lawton, S.J., president of Loyola Marymount University; the Honorable Margaret A. Grignon '77, California Court of Appeal, Second Appellate District; the Honorable Gilbert M. Lopez '76, Los Angeles Superior Court; the Honorable Carolyn Turchin '78, U.S. District Court, Central Division of California; Victor J. Gold, associate dean for academic affairs and William M. Rains Fellow; and Laurie L. Levenson, professor of law, William M. Rains Fellow, and director of the Center for Ethical Advocacy. A crowd of more than a thousand guests attended the ceremony in which Justice Grignon delivered the judicial address, Magistrate Judge Turchin administered the federal oath and Judge Lopez administered the state oath.

Biannual Swearing-In Ceremonies

June Ceremony

Members of the dias at Loyola Law School's on-campus Swearing-In Ceremony for new attorneys, held on June 3, 2004, were [l to r]: Robert Scholla, S.J., campus chaplain; Michael J. Conway '95, president of the Alumni Association Board of Governors for 2004-05; Georgene M. Vairo, professor of law and William M. Rains Fellow; the Honorable Carla M. Woehrle '77, magistrate judge, U.S. District Court, Central District of California; the Honorable Rolf M. Treu '74, California Superior Court; David W. Burcham '84, Fritz B. Burns dean and professor of law; and Michiko M. Yamamoto, associate dean for student affairs. Judge Woehrle gave the judicial address and administered the federal oath, and Judge Treu administered the state oath. ▶



Orange County Alumni Reunion

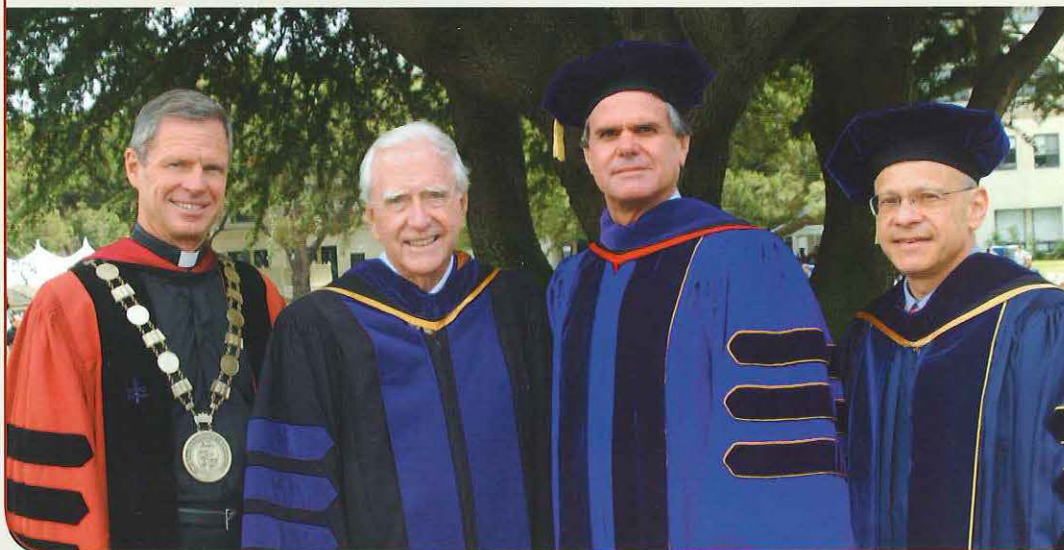


▲ Professor Christopher May [r] presented the "Distinguished Orange County Alumna of the Year" award to Catherine B. Hagen '78 [c] on February 26, 2004 at Loyola Law School's annual Orange County Alumni Reunion held in Costa Mesa. Hagen is a partner in O'Melveny & Myers' Newport Beach office. Also featured in photo is David W. Burcham '84, Fritz B. Burns dean and professor of law.

Commencement



The 83rd Commencement Ceremonies for Loyola Law School was held on May 23, 2004 at the Loyola Marymount University campus in Westchester. Family members and friends of the graduates witnessed the conferral of 13 master of laws in taxation, 4 juris doctor/master of business administration and 399 juris doctor degrees. Members of the dias presiding over ceremonies were [l to r] Robert B. Lawton, S.J., president of Loyola Marymount University; the Honorable William M. Byrne, Jr., senior district judge with the United States District Court for the Central District of California and the commencement speaker; David W. Burcham '84, Fritz B. Burns dean and professor of law; and Victor Gold, associate dean for academic affairs. ▼



Alumni

[& Campus Events]



Auction & Casino Night

Loyola Law School virtually turned into Las Vegas at the 11th annual Public Interest Law Foundation (PILF) Fall Auction and Casino Night held October 18, 2003. All proceeds from the auction (more than \$30,000) benefit PILF's Summer Fellowship Grant Program. The funds go directly to Loyola Law School students who want to serve the public interest but are unable to do so without economic assistance. A non-partisan, student-run organization, PILF helps foster the careers of law students dedicated to providing assistance to persons traditionally underrepresented in the legal system.



Latino Reception and Art Auction

Congresswoman Linda T. Sanchez for the 39th District of California [l] was the guest speaker at Loyola's Latino Alumni Chapter and La Raza de Loyola Reception and Art Auction, held February 29, 2004 at Camacho's Cantina & Grill in the City of Industry, Calif. Works from such Chicano artists as Alfredo de Batuc and Margaret Garcia were featured. Sanchez is pictured with recent graduate Fabiola Martin River '04 and David W. Burcham '84, Fritz B. Burns dean and professor of law.



Social Justice Symposium

Legal scholars gathered at "Social Justice in the 21st Century: A Live Symposium," held in the Robinson Courtroom, Albert H. Girardi Advocacy Center, on February 27, 2004. Sponsored by the Loyola of Los Angeles Law Review, in conjunction with the Public Interest Law Foundation, the symposium addressed such topics as "Gangs and Stereotypes," "Sexual Orientation and Foster Home Placement," and "Enacting a Mandatory Pro Bono Requirement for Law Professors." Among the notable guests were Erwin Chemerinsky (pictured).

National Civil Trial Competition

Robert Shapiro and Thomas V. Girardi served as judges at the most recent National Civil Trial Competition, which is held at Loyola Law School annually in November. Sponsored by Greene, Broillet, Panish & Wheeler, LLP of Santa Monica, the competition is open to 14 law schools from throughout the nation. The University of Denver School of Law was named champion for 2003.



Universidad Iberoamerica Visit

A team of lawyers, judges, law professors and law students from the Tijuana campus of Universidad Iberoamericana visited Loyola Law School on November 8, 2003 – including Elizabeth Corpi (pictured), dean of the law school at the Jesuit university. Loyola and Iberoamericana have established a relationship involving academic exchanges, in which Loyola students travel to Mexico and Iberoamericana students come north to Los Angeles.

Women's Law Event

Loyola Law School was the site for the Women Lawyers Association of Los Angeles' ninth annual Litigators' Forum on January 16, 2004. Following a mock trial face-off featuring top California women litigators, a luncheon was held with featured speaker Arianna Huffington. ▼



Alumni [& Campus Events]

Law Day

The St. Thomas More Society of Los Angeles held its annual Law Day Program at Loyola Law School on Thursday, April 29, 2004. Law Day began with Mass celebrated by Rev. Robert B. Lawton, S.J., president, Loyola Marymount University [ctr], and Fr. Robert Scholla, S.J., chaplain at Loyola Law School [r]. Mass was followed by a lecture, entitled, "Governance and Accountability in the Church," given by Rev. Thomas Rausch, S.J., Chilton professor of Catholic theology at Loyola Marymount University [l]. ▶



Martin Luther King, Jr. Celebration

Dolores Huerta, renowned civil rights activist and cofounder of the United Farm Workers Union, served as the keynote speaker at a Loyola Law School program held last January in commemoration of Martin Luther King, Jr.'s birthday. Huerta is one of the most important figures in the history of the California labor movement. Along with Cesar Chavez, Huerta created and organized the United Farm Workers Union to represent agricultural field workers in negotiations with growers, and she directed the nationwide grape boycott which led to a historic three-year collective-bargaining agreement between growers and UFW. ▶

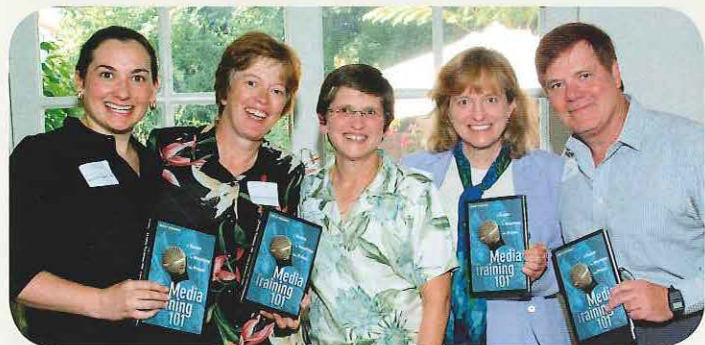


Red Mass

The Los Angeles legal community gathered at downtown Los Angeles' Cathedral of Our Lady of the Angels for the 21st annual Red Mass on October 1, 2003. As is traditional, the Mass began with an entrance procession of the co-celebrants from the Archdiocesan Tribunal, clergy from Loyola Marymount University, members of the Diplomatic Corps, Papal Knights, state and federal judges, state and local officials and faculty from Loyola Law School. The name "Red Mass" derives from the color of vestments worn by the celebrants of Mass in the 11th century when the tradition began in France. ▼



Alumni Brunch



▶ "The Court of Law v. the Court of Public Opinion" was the topic of brunch held at the home of Laurie L. Levenson, professor of law, on October 26, 2003. The featured guest was Sally Stewart, author of Media Training 101. Levenson [c] posed with some of her guests [l to r] Michelle Popowitz '94, Jeleen Guttenberg '96, Peggy Bray '97 and Larry Larson '97.

Alumni

& Campus Events



▲ Trial Attorney Dinner

Steve Cooley, district attorney [I], along with leading trial attorneys met with Dean Burcham in December 2003 at the California Club. The group discussed the future of Loyola Law School's trial advocacy program.



▲ Asian-American Alumni Reception

The Honorable Fumiko H. Wasserman '79 [I] of the Los Angeles Superior Court was recognized by peers for her contributions to the legal profession and service to the Law School at the Asian-American Alumni Reception on February 22, 2004.

Orange County Summer Mixer

Mark Minyard '76 and his wife Barbie hosted Loyola Law School's Orange County Alumni Summer Mixer at their Newport Beach home on August 14, 2003. Guests enjoyed a spectacular backyard view of the harbor. All proceeds from the event benefited the Orange County Alumni Scholarship Fund.



Young Lawyers Program ▲

Legal education begins early for high school students participating in Loyola Law School's Young Lawyer's Program, designed as an outreach program. Completely run by the student members of the Black Law Students Association and La Raza de Loyola, the program is under the direction of Professor Gary Williams. Following weeks of preparation, youths from local high schools go through the process of a mock trial and appear before a Loyola graduate who serves as judge. The "future" trial lawyers learn about court proceedings first-hand, as they take on the role of defendant, juror, witness, prosecutor or defense attorney.



Public Interest Law Reception

The Public Interest Law Foundation (PILF) honored two alumni last March at its first annual PILF Reception for their outstanding service in public interest. Dean David W. Burcham '84 [c] with Linda Samels Ceballos '95 of the Inner City Law Center and Carlyle Hall III '96 of Heller Ehrman White & McAuliffe.





Alumni [& Campus Events]

Burns Scholarship Luncheon

Joe E. Rawlinson '58 and son Rex Rawlinson '74 (seated) represented the Fritz B. Burns Foundation at a luncheon held earlier this year where they met the current student recipients of Fritz B. Burns Scholarships.



Title IX Seminar

Dr. Bernice R. Sandler [r], scholar at the Women's Research and Education Institute in Washington, D.C. and adjunct associate professor at MCP Hahneman School of Medicine, spoke before law students in Loyola Law School's "Title IX: Sex Discrimination in Education" seminar last February on achieving equity for women. Dr. Sandler was instrumental in drafting and helping pass Title IX in 1972. Loyola's seminar is taught by Adjunct Professor Nancy Solomon [l].



Long Beach Alumni Reception

Adjunct Professor, David Weil '95 and Commissioner Diana Summerhayes '83 of the Superior Court in Compton at the reception, which was held at the home of David W. Burcham '84 and his wife Chris. Alumni in attendance represented a span of more than 50 class years.



Shylock's Appeal

Shakespearean Moot Court came to Robinson Courtroom at Loyola Law School on Friday, April 23, 2004, in the case of *Shylock v. Antonio* from William Shakespeare's "The Merchant of Venice." The program began with a professional enactment of Act IV, the great trial scene in the opulent Court of 16th century Venice, where the troubling specter of anti-Semitism arises. Shylock's appeal was then argued before the bench, comprised of [l to r] the Honorable Frederick J. Lower, Jr. '64, the Honorable Manuel L. Real '51, and the Honorable Carl M. Woehle '77.



Patent Law Reception

John T. McDermott, professor of law, hosted the first annual Patent Law Reception this past spring. Among the guests were Trevor V. Stockinger '92 [r] of Irell & Manella LLP.

Alumni

[& Campus Events]



Grand Avenue Gang Luncheon

Alumni representing classes from 1963 and earlier—who attended Loyola Law School when it was located at its previous site on Grand Avenue—gathered together for a Grand Avenue Gang luncheon and “symposium” on February 25, 2004. A presentation by Professor Karl Manheim in the Robinson Courtroom followed the luncheon, demonstrating how technology is now used in the education of law students.



O'Neil Lecture

The Honorable Carlos Moreno, Associate Justice of the California Supreme Court, spoke on “Achieving Justice” at Loyola’s annual Honorable Stephen E. O’Neil Memorial Lecture, held on April 21, 2004. In attendance were [l to r] Associate Justice Margaret Grignon ’77, California Court of Appeal, Second Appellate District; Associate Justice Patti Kitching ’74, also of the California Court of Appeal, Second Appellate District, and wife of the late Honorable Stephen E. O’Neil; Pamela Reis; Dr. Phyllis Cannom; the Honorable Jane Johnson, Los Angeles Superior Court, Torrance; and Margaret Hourigan.



African-American Alumni Reception

Alfred Jenkins ’76 [r], pictured here with fellow alumni and friends—the Honorable John V. Meigs ’78 and the Honorable Beverly Mosley ’78—was honored by Loyola Law School at the African-American Alumni Reception in February for his service to Loyola and the community. A deputy district attorney, Jenkins has dedicated years to tutoring African-American law students preparing for the California State Bar Examination.

IN MEMORIAM

PASSINGS

Alumni Remembered

John T. Gurash ’39 passed away in Pasadena on October 21, 2003. He was 92. Gurash was the retired chairman and chief executive officer of INA Corporation, a holding company for Insurance Company of North America and other corporations, with headquarters in Philadelphia. The company is known today as CIGNA Corporation. Gurash helped implement the merger of INA and Connecticut General Life Insurance Co. to create CIGNA. He later held positions as president, CEO or chairman of numerous companies including CertainTeed Corporation, Household International Inc., Purex Industries, Inc., Saint-Gobain Corporation, Lockheed Corporation, Lloyds Bank of California, Security Title Insurance Company and Pic ’N’ Save Corporation. Gurash, was a generous supporter of Loyola Law School, and served on several boards, including the Weingart Foundation, Occidental College and the National Safety Council. Last July, the emergency room at Huntington Memorial Hospital in Pasadena was renamed after Gurash and wife Kay, who preceded him in death by two months.

Hugh L. Macneil ’48 passed away on April 21, 2004 at Huntington Memorial Hospital in Pasadena at the age of 86. Macneil was a partner at O’Melveny and Myers, where he practiced law from 1948 to 1983 in the field of probate and estate planning. He was a seventh generation Californian, directly descended from Jose Dario Arguello, presidio comandante and acting governor under Spanish rule. His grandfather founded the City of Azusa, and his father was Sayre Macneil, the fifth and longest-serving dean of Loyola Law School (1941-59). Macneil served five years in World War II in the U.S. Navy, leaving with the rank of lieutenant commander. He graduated from Harvard College prior to obtaining his degree from Loyola Law School. A loyal supporter of Loyola Law School, Macneil was active in both Los Angeles County and State Bar Association matters, and was president and director of Azusa Foothill Citrus Company. Before he retired, Macneil was a long-time member of the board of Pacific Clinics as well as various other boards and charitable organizations. Macneil is survived by his wife Melba and several children and grandchildren.

Fred J. Martino ’39, a Beverly Hills solo practitioner and a long-time supporter of Loyola Law School, passed away on January 5, 2004. The World War II veteran was 87. A native of New York, Martino started his legal career in 1940 at the age of 23. Starting his practice in the entertainment industry, Martino represented film stars including Piper Laurie and Anita Ekberg, and later switched to real estate law. An avid tennis player and charity tournament golfer, Martino was named “Member of the Year” by unanimous vote of the caddies at the Bel Air Country Club just days prior to his passing. He chaired the Law School’s annual golf tournament, and never missed a tournament. An active and strong supporter of Loyola Law School, Martino served as a member of the Alumni Association Board of Governors and as its president. He was a devoted husband to Margaret, his wife of 53 years, and the father of four children and two grandchildren.



Estate Planning Seminar

Douglas Martin '62 of La Quinta, Calif., presented an estate planning seminar this past spring for Loyola Law School alumni and friends who reside in the Palm Springs area.



Awarding of the CourtCall Scholarship

Class of 2004 graduate Larry Lawrence [r] of the Byrne Trial Advocacy Team at Loyola received a CourtCall scholarship arranged by Robert V. Alvarado, Jr. '83, chief executive officer of CourtCall, LLC in Los Angeles. CourtCall allows practicing attorneys to make routine civil, criminal, probate, bankruptcy and other court appearances telephonically instead of in-person. While streamlining court procedures, telephonic appearances also enable lawyers to avoid travel.



Golf Tournament

Partners in marriage and in golf, Linda and John Clarke ready themselves for the shotgun start at the Robert A. Cooney Golf Tournament held annually in September. The tourney benefits the Cancer Legal Resource Center at Loyola Law School.

Law & Technology

Legal issues surrounding file-sharing and digital copyrighting was the focus of a conference and mock trial held May 21, 2004, titled "United States v. Baltimore: A Prosecution Under the Digital Millennium Copyright Act." The annual At the Crossroads of Law and Technology Conference and Mock Trial was cosponsored by Caltech, Loyola Law School and the Loyola Entertainment Law Symposium.



Dean's Forum Dinner

Patrick C. Haden '82, a partner in the Los Angeles venture capital firm of Riordan, Lewis & Haden, a quarterback for the NFL Los Angeles Rams from 1976-81, and Rhodes Scholar, served as guest speaker at the Dean's Forum Dinner held at the California Club on October 8, 2004. Haden spoke about Southern California's economy and also shared highlights about his football, broadcasting and legal careers.



INCORPORATING THIRD-PARTY CULPABILITY INTO DEFENSE



By Laurie L. Levenson, Professor of Law

This article first appeared in the Los Angeles Daily Journal on February 23, 2004. www.dailyjournal.com.

Whether a court should allow evidence that another person may have been responsible for a crime is always a tricky issue. The judge in the Robert Blake murder trial recently declined to allow the defense to point the finger at Christian Brando for the murder of Blake's wife, Bonny Lee Bakley.

Judges are often reluctant to allow evidence of a third party's culpability. It is hard enough to try the person in the courtroom; judges are generally not enthusiastic about allowing the defense to start pointing the finger at a third party who has not been charged and is not present to defend himself or herself.

However, the rule is not absolute. Under California law and federal due-process principles, a defendant may have a right to introduce third-party culpability evidence. The state Court of Appeal recently addressed the scope of this right in *People v. Adams*, 2004 DJDAR 893 (Cal. App. 6th Dist. Jan. 27, 2004), as amended, 2004 DJDAR 384 (Cal. App. 6th Dist. Feb. 5, 2004).

Defendant Michael Adams was convicted of the rape and murder of Sylvia Edgren in June of 1981. According to the evidence at trial, Edgren had advertised for a male roommate and kept a record of those men who came for an interview. The defendant's name was

found on her diary next to a notation that stated, "TUES 10:00." On that Tuesday, Edgren left her former husband's home, stating that she was going to meet a prospective tenant. She was never again seen alive.

The next day, Edgren was found slumped in her car, nude from the waist down, with dried semen on her legs, in her vagina and rectum. She had been killed by blows to her head. Police immediately started compiling a list of possible suspects. Adams was not on that list. Instead, the number one suspect on the list was Edgren's "off-and-on" boyfriend with mental problems, Frederick Kallerup. Kallerup and Edgren had a tumultuous relationship; at the outset of the investigation, police believed he was the most likely killer. Yet, for 20 years, police believed they did not have sufficient evidence to bring charges.

Then in 1999, the police turned to DNA-typing to help them solve the crime. Based on the DNA tests, Kallerup was eliminated as the donor of the semen found on Edgren the night of her murder. However, a cold hit from the DNA database indicated that defendant Adams was a match. Police interviewed Adams. Initially, he denied having any relationship with Edgren. However, once the DNA tests were mentioned, he told police that they had a regular sexual relationship that explained the semen found on her at the time of her death. Adams denied killing Edgren.

At trial, Adams sought to introduce evidence of Edgren's stormy and violent relationship with Kallerup. One witness was willing to testify that Kallerup had said a few months before the killing that he was very angry and frustrated with Edgren and that there had been a physical battle between the two. Another witness, who was missing at the time of the hearing, evidently would have testified that Edgren told her, "Rick Kallerup tried to kill her by choking her around the neck."

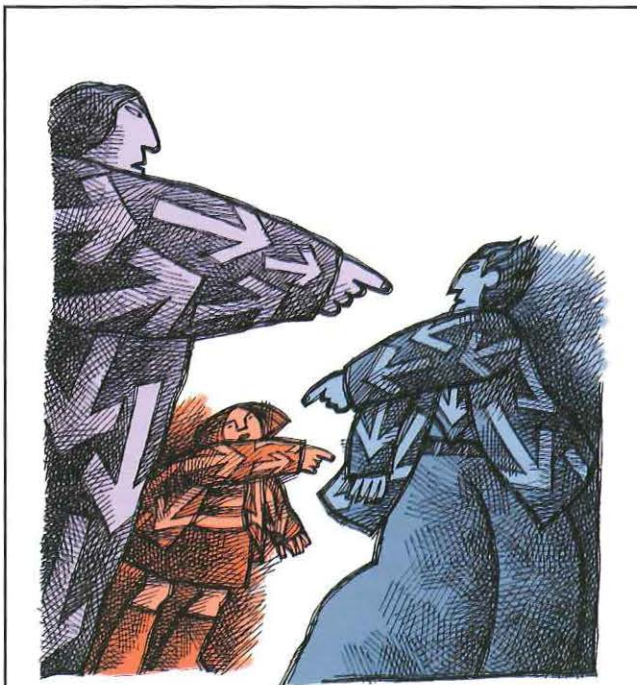
Prosecutors sought to stave off the assault on Kallerup by filing a pretrial motion to preclude the defense attorney "from asking any questions about Frederick Kallerup, including questions to police

about why he was first considered a suspect, questions to other witnesses about his mental condition, questions about any alleged prior acts of violence, [and] questions about his sexual relationship with the victim." In opposition, the defense offered additional corroborative evidence of an ongoing, troubled relationship between Kallerup and the victim. After reviewing all of the evidence, the trial judge granted the prosecution's motion to exclude the proffered third-party culpability evidence.

Two legal principles govern the admissibility of third-party culpability evidence—one constitutional and the other based on the rules of evidence. Under the Due Process Clause of the U.S. Constitution, a defendant has a right to raise a reasonable doubt to the charges against him. Defendants frequently argue that they should be able to create this reasonable doubt by pointing to a third person's possible culpability for the crime. On this basis, the United States Supreme Court allowed the introduction of evidence that a third party had confessed to a crime with which the defendant was charged in *Chambers v. Mississippi*, 410 U.S. 284 (1973).

Yet the right to introduce third-party culpability evidence is not unlimited. California Evidence Code Section 352 gives the trial judge the discretion to weigh the probative value of such evidence against its prejudicial impact on the trial. If the court finds that the third-party evidence is too speculative and therefore not very probative, it may exclude it because it will serve to mislead and confuse the jury. See *People v. Bradford*, 15 Cal.4th 1229 (1997).

In deciding what kind of evidence will be admitted as third-party culpability evidence, the California courts have tried to balance these two rules. The result has been the standard developed by the state Supreme Court in *People v. Hall*, 41 Cal.3d 826 (1986) and *People v. Mendez*, 193 Cal. 39 (1924). To be admissible, the third-party evidence need not show substantial proof of a probability that the third person committed the act; it



After reviewing all of the evidence, the trial judge granted the prosecution's motion to exclude the proffered third-party culpability evidence.

need only be capable of raising a reasonable doubt about the defendant's guilt. However, evidence of another person's mere motive or opportunity to commit the crime will not suffice to raise a reasonable doubt about a defendant's guilt; there must be "direct or circumstantial evidence linking the third person to the actual perpetration of the crime." See *People v. Hall*, 41 Cal.3d at 833 (1986).

Courts must decide on a case-by-case basis whether sufficient direct or circumstantial evidence links the third person to the actual perpetration of the crime. In making this decision, courts often require more of a defendant than they would of the prosecution in linking circumstantial evidence to the commission of the crime. For example, courts regularly allow prosecutors to prove their case by demonstrating that the defendant had a motive and opportunity to commit the crime. However, such evidence alone would not be sufficient to meet the criteria for the admissibility of evidence pointing toward a third party's culpability. Moreover, before a defendant can introduce evidence of another suspect's violent tendencies, the defense must obtain direct evidence of

Thus, instead of entirely precluding evidence of third-party culpability, the trial court used its discretion to pare down the defense presentation on this issue. It did not allow the defense to use every scrap of paper or beer can that they claimed linked Kallerup or Edgren's former husband to the crime. Rather, the defense was allowed only occasional references that could raise questions in the jurors' minds.

For appellate courts, this is usually good enough. As long as a trial court does not exclude the only evidence that would link a third party to the commission of a crime, the appellate courts are unlikely to find prejudice. See *People v. Hall*, 41 Cal.3d 826 (1986). A defendant does not have the right to use his or her trial to put a third person on trial. While this may be excellent trial strategy, its dangers are obvious. Instead of focusing on the evidence that links the defendant to the crime, jurors quickly can become absorbed in an effort to play detective and focus on what the crime might have been.

In *Adams*, prosecutors were able to keep the jurors' focus on the defendant's culpability notwithstanding the defendant pointing his finger at other suspects. To do so,

A defense lawyer's job is to create reasonable doubt any way that he or she can...

these violent acts. Just having witnesses testify that they believed there was a violent relationship between the defendant and another party, without being a witness to that physical abuse, may be insufficient. See *People v. Alcala*, 4 Cal.4th 742 (1992), Evidence Code Section 1101.

In *Adams*, the court rejected the proposition that there is an unconstitutional imbalance in how the Evidence Code is applied in limiting the defendant's ability to introduce third-party culpability evidence. The appellate court noted that one reason it need not find a constitutional violation was that the trial judge had allowed the defense to present at least some evidence of third-party culpability to the jury. In fact, throughout the trial, the defense was able to mention Edgren's volatile relationship with Kallerup. Jurors heard that, shortly before her murder, Edgren believed that Kallerup and his friends were following her. They also heard that Edgren's former husband owed her money and that at least 40 men had been to Edgren's apartment applying to rent the room.

the prosecution focused on the devastating physical evidence in the case. Not only was there physical evidence linking Adams to the sexual assault and murder, but defendant's fingerprints were also found at the scene, and there were several holes in his alibi story.

A defense lawyer's job is to create reasonable doubt any way that he or she can, including suggesting another person's possible link to a crime. However, the ability to do this is limited by the law. Mere speculation, theories or tangential links will not be enough. The proof must be direct and substantial. As recent cases demonstrate, this is not an easy standard to meet, especially if courts believe that the defense is asking the jury to run away with its imagination instead of staying close to the case's evidence. ♦

Laurie Levenson, a law professor, William M. Rains Fellow and Director of the Center for Ethical Advocacy, joined the Loyola Law School faculty in 1989. She teaches Advanced Trial Advocacy, Criminal Law, Criminal Procedure, Ethical Lawyering, Evidence and White Collar Crime.

Nominations Needed for Board of Governors Recognition Awards:

The Loyola Law School Board of Governors is accepting nominations for its "Recognition Awards," which will be bestowed on honorees at the annual Grand Reunion scheduled in spring 2005. The purpose of these awards is to recognize outstanding service to the Law School community, the legal profession and the community at large. Loyola Law School alumni, faculty and friends are eligible for awards for **service to the Law School** (including activities that enhance the image of the Law School, mentoring Loyola law students and recent Loyola graduates, leadership in outreach to students and alumni and other service or support to the Law School), for **service to the legal profession** (including activities that improve the image of lawyers, mentoring students and new lawyers, bar association activities, and for **service to the community** at large (including non-profit and public-sector and other contributions to society.) Service that is deserving of recognition is as varied as our alumni and friends.



**The Board of Governors is proud to have initiated this award in 1997
and even more proud of having honored the following past award recipients:**

1997

George R. Barlos '91
Charles L. Bleck, Jr. '72
Richard Honn '78
Ricardo A. Torres, II '92
Ann V. Whyte '69

1998

Hon. Carl F. Bryan, II '73
Marta J. Burg '91
Alfred Jenkins '76
Dinah I. Perez '95
Joseph V. Sliskovich '78, Professor
Robert Sulnick

1999

Robert W. Murray, Jr. '91
Mark J. Spalding '86
Grace K. Tevis
Maria C. Vargas-Rodriguez '73
Maria D. Villa '86

2000

Angela Hawekotte '79
Patricia Diaz Dennis '73
L. Hunter Lovins '75
John P. McNicholas '62
Kathryn E. VanHouten '89

2001

Therese Maynard, Professor
Hon. Beverly E. Mosley '78
Hon. Geraldine Mund '77
Lloyd W. Pellman '72

2002

Adrienne M. Byers '89
William C. Hobbs, Professor
John P. Miller '70
Hon. Richard Montes '67
David J. Pasternak '76

2003

Cristina Armenta '94
Robert A. Cooney
Brian Nutt '83
Patricia Phillips '67

2004

Arthur A. Greenberg '76
Cindy Lopez '85
Barbara Schwerin '87

**Contact Carmen Ramirez, Executive Director of Advancement
at 213.736.1046**

You may also submit nominations online at <http://alumni.lls.edu>

Student [Profiles]

INTRODUCING SOME OF LOYOLA'S STUDENTS



International Spirit

GABRIELLE PLATTNER '05

A day in the life of a soap opera writer is not easy. Just ask Gabrielle Plattner. Before she came to Loyola Law School, the USC film school grad spent her days in Europe (Germany, Hungary, and Finland) producing and writing for such nighttime soap operas as *Mallorca*, *Forbidden Love*, *Between Friends* and *Secret Lives*. She has her Writers Guild card to prove it.

Her first assignment was to write a pilot in Berlin about apartment inhabitants who discover that one of their neighbors is dead. She eventually graduated to writing steamier scenes,

particularly about a pair of twins who were separated at birth but united in the end. She contends that most of her episodes were more "low-key" compared to their American counterparts.

"The stories were, incest aside, a lot more innocent than American stories," says Plattner, who speaks fluent German, Spanish, and French. "European dramas are more realistic, especially in terms of casting. American soaps are all about beautiful people—and European casting is purposely done to look realistic," she notes.

Plattner got her start after answering an ad for a writer in *Variety*, a Hollywood trade magazine. Within three months she was promoted from story editor to executive. This was a big leap for the former assistant at Universal.

She decided to pursue law school because she found herself getting more involved in the business side of things, even in the creative world of television. Often, she was called upon to design and conduct sales presentations and to produce the shows. She found herself overseeing the writers instead of just being one.

"I was looking for a place where I could make more of a difference. I want to broaden my horizons. I don't want to limit myself to entertainment," she says.

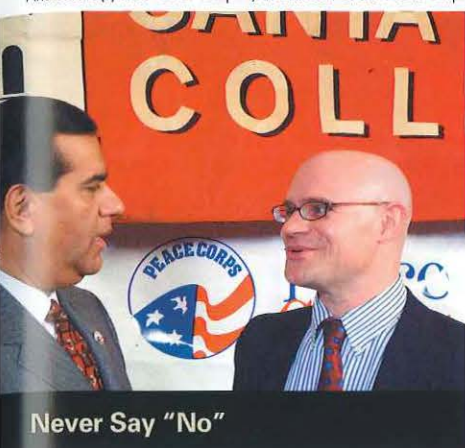
Plattner hasn't lost her taste for the dramatic since entering law school. Her favorite law class to date has been Criminal Law. She believes that professor Stan Goldman was "most engaging." That class prompted her to clerk for a judge in a criminal court. This opened her eyes to a topic that she previously wrote about but had no knowledge.

"You tend to insert crime into television dramas freely because it is so dramatic. The reality differs so much from the television misconception. At heart, though, both are all about human character," she explains.

For now, Plattner is betting on the certainty of the law profession and a future in international law. Her international background has already landed her a job in Paris, in the legal department of a multinational corporation.

"I made the decision for a change from entertainment, but I'm not closing the door forever to writing," Plattner said, smiling. "Perhaps someday, if I have interesting stories to tell..." ❖

Anaiscourt [r] with Gaddi Vasquez, the director of the Peace Corps.



Never Say "No"

GLENN ANAIS COURT '05

Glenn Anaiscourt is not the type of person who takes no for an answer. He and his fiancée Dawn considered applying to join the Peace Corps as seniors at Harvard College in 1988. They were told that because they were an unmarried couple, the Peace Corps could not guarantee they would be placed on the same continent, much less in the same country or town. Four years later, married and living in New York City, they applied. After a year-long wait, the couple finally received a joint two-year teaching placement at a Catholic school in Mouila, Gabon, West Africa.

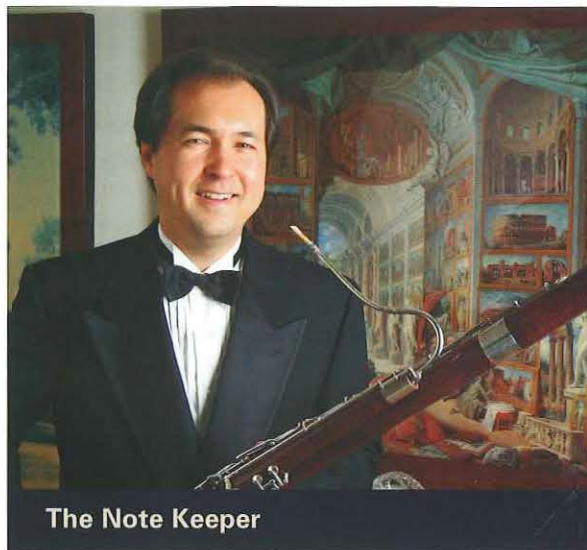
While Dawn taught physical science, Anaiscourt took a broad approach to his mandate to teach English language to his students, who spoke Gabonese languages and French. A rainforest country of only one million people, Gabon was largely left alone by the Western world until the discovery of vast oil resources in the 1950s. Despite the country's wealth and its skyscraper capital, its citizens who live in the interior of the country remain largely isolated from the outside world. So, Anaiscourt taught his students about important health issues, such as AIDS, and about world events and culture. Of course, Anaiscourt didn't neglect

his principal duty. When his students asked Anaiscourt whether they could really learn English in just a year, he told them to apply his own mantra: Never say no to the difficult. Today, Anaiscourt gets e-mails in English from many of his past students, including one who went on to get a graduate degree in finance at Oxford University.

And his success in Gabon did not end there. Now realizing it had a good thing in Anaiscourt and his wife, the Peace Corps approved a third year for the couple in Gabon. Anaiscourt was put in charge of the country's Women in Development Program at a moment of crisis. The program had been providing scholarships for 100 deserving girls, allowing them to venture beyond their traditional family role in Gabonese society. But the Gabonese currency had just suffered a radical devaluation, and the program was faced with a radical prescription—termination—until Anaiscourt stepped in, and with the help of Gabonese friends, raised enough money to save the program and its vital mission.

As for law school, Anaiscourt is sure his Loyola law degree will help him reach his overall objectives in life: to synthesize his entrepreneurial and public interests in new and exciting ways that benefit everyone, with a possible emphasis on integrating foreigners into the United States.

In the meantime, Anaiscourt's diligence, experience with teamwork, and keen intellect have earned him a spot as editor-in-chief of the *Loyola of Los Angeles Law Review* for the 2004-05 school year. ♦



The Note Keeper

CHARLES COKER '06

It is very rare to find a professor among the students in a Loyola Law School class, but it is unfathomable to find one like Charles Coker. Coker splits the majority of his time between attending Loyola and teaching music at UCLA. He sums up his life like this: "If I'm sitting still, I'd better be doing something."

Coker has a zest for learning, both from the student's and from the teacher's perspective. He took up the bassoon when he was in eighth grade because the saxophone—the first instrument he learned to play—was no longer challenging for him. He obtained a Fulbright Scholarship to study in Austria because he yearned to study at the Mozarteum Conservatory of Music and Theater Arts. Then he chose to attend law school because he felt that it was time for him to broaden his life.

He approaches his legal studies in the same manner as he approaches learning to play a musical instrument: First, you learn the fundamentals, and then you can begin to play. He even describes a few of Loyola's professors as conducting themselves the same way that virtuoso musicians do—with vigor and spontaneity. To Coker,

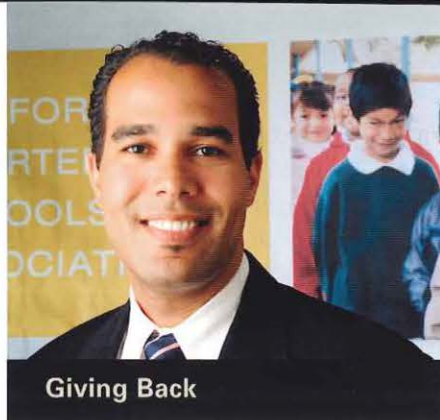
music fulfills the basic human need to express oneself and communicate with others. It especially helped him during his childhood.

"It was a vehicle to channel my feelings and a way to express myself when words failed me," Coker explains.

Coker comes from an eclectic background. He spent his early childhood in Itaewon Village, a predominantly American section of Seoul, Korea. There, he was surrounded by many of Korea's top musicians, including his mother, who was a prominent pop singer. He moved to California when he was 10. In 1994, he began teaching at UCLA. He is also a freelance musician who currently plays with a variety of orchestras, as well as on film scores. Coker has played for almost everyone, from the Hollywood Bowl Orchestra to the Los Angeles Philharmonic. He has worked on the scores for the films *Seabiscuit* and *Finding Nemo* as well.

Attending law school, while juggling his teaching career, musical career, and family life, is difficult for Coker, but he tries his best to stay focused on his studies and work toward performing well at Loyola. Surprisingly, despite his hectic schedule, Coker remains calm and seemingly unfazed. He is happiest when he's learning something new and being creative, which is how he sees both teaching and studying.

Upon graduation, Coker plans on retiring from teaching. He says he wants to change careers before he no longer finds teaching pleasurable. He seeks to combine his law degree with his music background and work in the music department of a film studio. He would also like to work for a non-profit performing arts association. He wants to pay them back for all they've done for him—letting him play music. ❖



Giving Back

GEORGE C. FATHEREE III '07

The trials and tribulations of a business venture gone awry were captured on digital videotape and told in agonizing detail in the documentary film *Startup.com*. As one of the four co-founders of govWorks.com (the website featured in the film), George C. Fatheree III learned first-hand about the glory and gore of being an entrepreneur.

The idea of the company was a novel one. Make it easier for the public to pay parking tickets and other debts owed to a city online.

"I came on board to put together a business plan, raise some capital, and see if we could find one or two cities to pilot the idea. Within 72 hours of sending the business plan out, we had \$2 million in seed capital commitments and that was just the beginning," Fatheree says. The investment opportunity became a hot property with tens of millions of dollars committed quickly.

Then came several huge management and technical blunders and personality conflicts that the company could not overcome. Fatheree spent two years with the venture until its well-documented demise.

"Despite the financial failure, govWorks.com was a tremendous and invaluable learning experience," he says. "I learned that there's no substitute for experience. We had a bunch of people with great resumé's, who had worked at top investment banks on Wall Street. They were bright people

out of Ivy League schools. But no one had ever operated a business before. Knowing what I know now, I'd have traded 20 of those people for someone who had run a company. There's just no substitute for someone with experience."

After govWorks.com crashed and burned, Fatheree worked at McKinsey & Company, a large private-sector consulting firm. He advised chief executive officers of major companies how to increase value for their shareholders. It was during a project working for an oil company in northernmost Canada, about 100 kilometers from the Arctic Circle, that he began to assess his career.

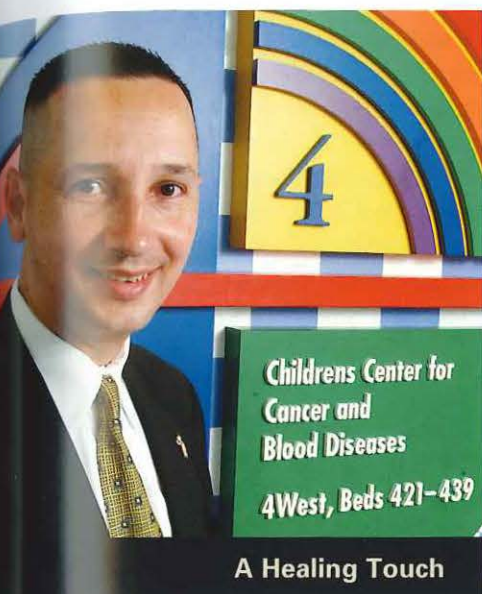
"I just started to think, 'Is this what I want to do with my time and talent?'" Fatheree says. "I needed to do something more fulfilling than working to increase the stock price for Fortune 100 companies. I wanted to dedicate my career to having more social impact and spend more time with my family."

Now 28 and a Fritz B. Burns scholar at Loyola, Fatheree also commits his time to public education, working to improve student achievement and expand opportunities for the highest-need students in the state.

"Growing up, people around me took an interest and made an investment in me. Because of those investments I've been given tremendous opportunities. It's important to me to give back and to create the same opportunities for others," he adds.

Fatheree is the chief operating officer of the California Charter Schools Association. "Charter schools," he says, "remove a lot of the barriers to student achievement and create an environment much more conducive to student success." ❖

[Profiles]



MICHAEL VELÁZQUEZ '04

When you dream big, things happen," says Michael Velázquez, chief executive officer of Padres Contra El Cancer. Velázquez knows first-hand what it means to dream big.

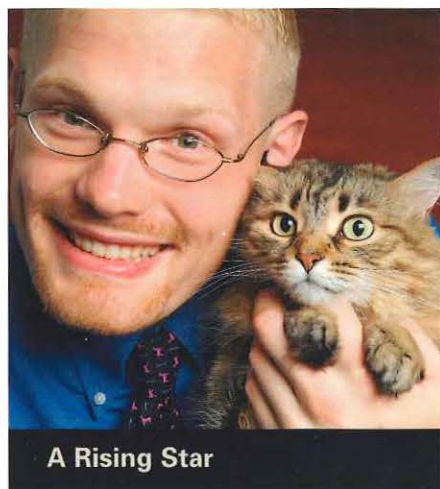
In 1999, Velázquez dreamt big and took the plunge. About to start law school and working full-time for HBO, Velázquez quit his job to fundraise full-time for Padres Contra El Cancer, a non-profit organization dedicated to improving the quality of life for Latino children with cancer and their families by providing educational, emotional, social, and financial programs.

Padres was on the verge of closing because of a lack of funds, and Velázquez knew he had to do something selfless for the children and families that Padres served.

Velázquez got Padres back on its feet, though not without some difficulty. But through it all, Velázquez found inspiration and motivation from the children. He notes, "I made a

commitment that no matter what happens, I would always advocate for the child. Through every major decision, the key was, 'How does this impact the children and their families?'"

These days, Velázquez continues to dream so that Padres can continue serving children with cancer and their families well into the future. Velázquez is looking forward to better serving the children and families of Padres, equipped with his newly acquired juris doctor and a greater knowledge of health law. ❖



LUKE REYNOLDS '06

There is not enough time in the day for Luke Reynolds.

New to Loyola last year as a second-year transfer student in the evening program, Reynolds often begins his work day at 7 a.m. at the Federal Deposit Insurance Corporation (FDIC), where he is a community affairs specialist, and then attends class at Loyola until 10 p.m. In his spare time, he runs marathons, volunteers for a fair housing advocacy agency and Loyola's Volunteer Income Tax Assistance program, does long-distance cycling, and works to help

provide greater legal rights for animals. His animal rights activity has garnered him recognition from the law school community.

Reynolds moved to Los Angeles almost a year ago after accepting a promotion with the FDIC. At Wayne State University, his former law school, he was an honor student and representative on the student council. At Loyola he intends to get involved in government, law review, and other school activities, and maintain his glowing academic record. He was recently elected to be a representative for the Evening SBA, and is president of the Loyola chapter of the Animal Law Defense Foundation (ALDF), which he co-founded with fellow student Stacey Wang.

Reynolds is very passionate about animal law. He says he has "always been close to and had a strong commitment to animals." He learned about ALDF when he attended an animal rights conference, and he was immediately attracted to the organization. He soon sought to charter a chapter for Loyola Law School. Along with Wang, Reynolds drafted the chapter's bylaws, then began setting up meetings and gathering members for the organization. The organization is still in its infancy, but Reynolds has already arranged for the Los Angeles City Attorney who handles animal rights to speak on campus, and he hopes to have more speakers and volunteer projects next year.

In his short time at Loyola, Reynolds has already proven himself to be a pragmatic and effective leader. ❖

THE WIZARD OF OZ,
MICHELANGELO,
CASABLANCA,
AND THE
CONSTITUTION:

ORIGINAL Intent Anyone?

By Robert W. Benson, Professor of Law

Is the true meaning of the Constitution to be found in the original intent of the framers? It is natural, but wrong, to believe that a text must mean what its author meant it to mean. A text, like any other cultural work, has meaning for us whether we choose to adhere to the author's intent, give it a bit of weight, or to ignore it altogether.

To be sure, we often do take the author's intent as the one that really counts, particularly when what we're after is communication of a message. If your kids send you to the store with a note reading "quart of chocolate ice cream," you'd better not come home with a quart of motor oil and a lame excuse that you read the text only as suggesting an analogy. So, too, with wills, love letters, and the instructions on how to light our gas furnaces: The author's meaning holds a mighty interest for us.

But sometimes we privilege the author's intent, sometimes we don't. Dylan Thomas told us that his lines on being "green and carefree, famous among the barns, about the happy yard and singing as the farm was home" evoke his childhood at his aunt's farm in Wales, but many of us would say the poem means more to us than just that. Thomas might agree. It was e.e.cummings, I believe, who, when asked if he meant a certain thing by a poem he had written, replied, "I do now that you point it out to me." At times, we don't even care whether the author would accept our meaning; the work has meaning for us on our own terms. This is particularly true in art museums where the rule for many is that "beauty is in the eye of the beholder," and in the galleries of modern abstract art where you hear whispered, "I suppose it's one of those that means whatever you want it to mean."

At the same time, there is a contrary tradition, rooted in Renaissance individualism and boosted by modernist subjectivism, of valuing artist's intent above all else. When the U.S. Customs Service classified Brancusi's bronze "Bird in Space" as a taxable knickknack, it failed to acknowledge this tradition, but a court set the Service straight and reclassified the bronze as a tax-exempt sculpture, honoring the artist's meaning.

When Robert Rauschenberg was commissioned to do a portrait of art dealer Iris Clert, he sent a telegram reading, "This is a portrait of Iris Clert if I say so." Many in the art world agreed, because for them artist's intent trumped everything. Here are some other examples of our mixed habits of privileging and ignoring author's intent.

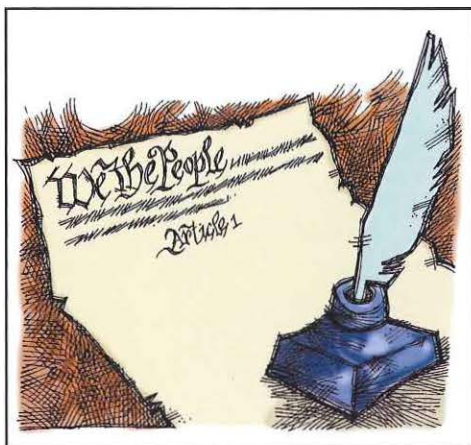
THE WIZARD OF OZ

Generations of Americans now think of *The Wizard of Oz* only as an enchanting coming-of-age story, or a classic fairy tale of every person encountering good and evil on the road of life. Few know that on one level the author, journalist L. Frank Baum, wrote it in 1900 as a political allegory for the Populist movement. Oz is the abbreviation for ounce, and the Yellow Brick Road is the gold standard. Dorothy wore silver shoes (not ruby red as in the movie) which represents free silver coinage. Dorothy is every person, the Tin Man is the industrial worker (who, dehumanized by working in factories, lacks a heart), the Scarecrow is the farmer (who lacks a brain to know what his best political interests are), the Cowardly Lion is William Jennings Bryan, the munchkins are the "little people," the Wicked Witch of the East stands for bankers and capitalists, and the Wizard is the president who rules by trickery and deception. This is not the story told to children today. Everyone is quite happy that the author's original intent has been forgotten. Yet for millions the story has true meaning.

MICHELANGELO

When the Vatican began to clean Michelangelo's frescoes in the Sistine Chapel in the 1980s, the familiar soft, rounded, muted figures suddenly emerged as sharp, vividly colored (hot pinks! apple greens!) cartoon-like characters. Howls went up from

the international art community: "Michelangelo was being destroyed!" When the dust of controversy settled, the evidence seemed to suggest that the restoration had not damaged Michelangelo's original work but had brought it back to life. What was removed was nearly 500 years of smoke, air pollution, and previous restorations. They had created the muted, sculptural forms that later generations took to be the genius of the artist. Some continue to dispute the evidence, others accept the "new" fresco style as Michelangelo's original intent and respect it for that reason, while others now ignore the artist's intent and cherish the memory of the familiar forms which had become a canon of excellence for so much art criticism. Others speculate that Michelangelo foresaw the deterioration of the works and deliberately painted them "too sharp, too bright" at the outset so they would tone down gradually over the centuries. Still others recall the various periods when popes, oblivious to artist's intent, have ordered the genitalia on the frescoes' nudes to be painted over. Some of these positions seek to honor original intent, some to discount it. All are ways that viewers give meaning to the artistic text.



Everyone is quite happy

that the author's original

intent has been forgotten.

Yet for millions the story

has true meaning.

CASABLANCA

After computer technology made it feasible to add color to black-and-white movies, video producers began buying up the rights to the old first-and second-generation movies. *Casablanca* and other classics that had assumed hallowed meanings for film buffs were turned into splashy color versions for home viewing. Many agreed with actor Jimmy Stewart that colorization is "morally and artistically wrong." They urged the government to follow European nations whose laws give artists a continuing "moral right" to prevent any distortion of their works, even against copyright owners.

Woody Allen testified to the U.S. Senate that colorization against the director's intent is "sinful... If the director is not alive and his work has been historically established in black and white, it should remain true to its origin."

Frank Capra, then 87, wrote to the U.S. Copyright Office: "I chose to shoot *It's a Wonderful Life* in black-and-white film. The lighting, the makeup for the actors and actresses, the camera and laboratory work, all were geared for black-and-white film, not color.

I beseech you with all my heart and mind not to tamper with a classic in any form of the arts."

The protests did not halt colorization. Too much money is involved. Color versions increase sales and rentals of home videos, and bring television stations bigger audiences. More people saw *The Maltese Falcon* in color in six months than saw the original black-and-white in the previous ten years. "There is a great deal of elitism involved here," said the owner of a colorization company, "the intellectual intent of a few to impose their own views and tastes on millions and millions of Americans."

grounds that it encourages social stability, protects settled expectations, taps the wisdom of our ancestors, is required by our "social contract," or produces a reverent devotion in the populace for a sacred civil text. Disregarding the past has been justified on the grounds that we don't want our Constitution to be a straitjacket for succeeding generations, but a living document capable of fitting changing social needs; nor do we want to honor ignominious chapters in our nation's political history, nor privilege past moralities that we now find cruel or barbaric. Some Supreme Court justices on many occasions have proclaimed their allegiance to the original intent of the Constitution's framers. They

*Original intent is sometimes important to us,
sometimes not.
We have no consistent cultural practice.
The question, then, whether the Constitution means
what its framers originally meant
(assuming we could discover that),
depends upon what cultural practice we wish to adopt,
and why.*

Well, I'll still take my *Casablanca* and others in black-and-white, thank you, but clearly there are lots of people who get as much meaning from the color versions. Moreover, we anti-color types haven't consistently respected artist's intent either. Surely the old filmmakers didn't intend to have their movies reduced to miniature screens, projected in tones of glaring grey TV light, cut off at the edges, and viewed by two people in a living room.

CONSTITUTIONAL MORAL

Original intent is sometimes important to us, sometimes not. We have no consistent cultural practice. The question, then, of whether the Constitution means what its framers originally meant (assuming we could discover that), depends upon what cultural practice we wish to adopt, and why. Seeking the Constitution's past has been justified on the

have just as frequently dealt the cards of Constitutional meaning with a poker face of absolute silence about original intent. The reverse is also true: Justices who have made much of the need to struggle free of original intent in the name of an "evolving" Constitution, have never hesitated to invoke the names of the framers when useful to confirm desired results. Which of these values you privilege depends upon your philosophy of government and life, not a rule of language or law. ❖

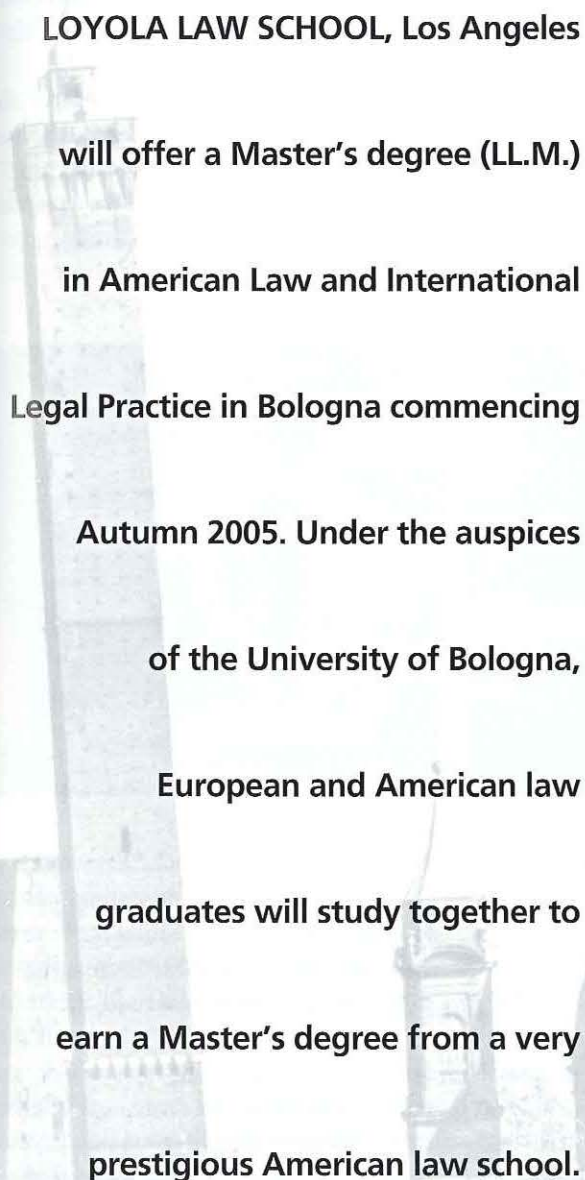
Robert W. Benson, professor, joined the Loyola Law School in 1973. He teaches International Environmental Law, International Protection of Human Rights, Philosophies of Public Interest Law and Social Change, International Trade & The Environment and Native American Indian Law Seminar.

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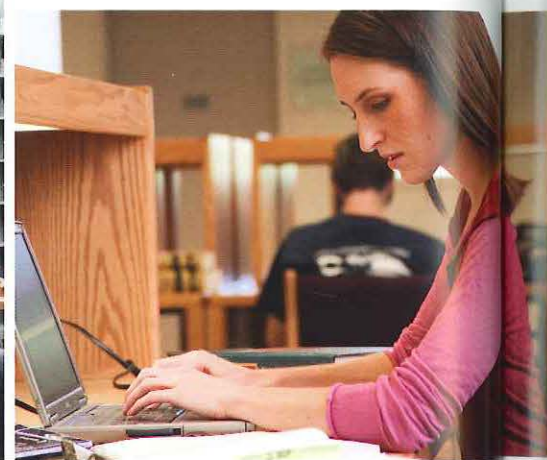
William M. Rains Law Library *Ranks as one of the Best* in the Nation



Remodeling also created more space for the library's holdings. According to Nissenbaum, the Rains library is notable for its impressive array of California practice materials, records and briefs from the state and federal courts, government documents, and materials on international law and human rights.

There's also a popular culture collection, apropos of the law school's location in the entertainment capital of the world.

"We have close to 600 videos in which law is the dominant theme in the movie or television program," notes Nissenbaum, who conceived of the collection during the heyday of television's *LA Law*.



On weekends, many alumni make use of Loyola's William M. Rains Law Library, which is open to all Loyola graduates. Redesigned by architect Frank Gehry and dedicated in 1991, the library currently houses nearly 560,000 volumes and boasts the eighth-largest acquisition budget of any law library in the United States.

Director Robert J. Nissenbaum is especially proud of the library's 1999 renovation, which expanded the premises from 40,000 to 65,000 square feet. It was executed in 1999 in less than 6 months with minimal disruption of services. "We basically closed the main

library and had to do the renovation in the shortest amount of time possible," says the director.

The renovation, which cost \$8.5 million, added more than 400 Internet ports and created an 83-workstation computer laboratory. In addition, "We put in large expanded work surfaces for patrons throughout the facility, used an extensive application of compact shelving to efficiently store the book collection, and created a lounge in a sky-lit atrium on the second floor," says Nissenbaum, who teaches legal research to first-year students and Trusts and Wills.

"We were merely blocks from where the show was supposedly taking place. It really piqued my interest," says Nissenbaum. It was clear to him that a pop culture collection would facilitate interdisciplinary courses in law and the arts and complement the work of faculty members who write novels. One such Renaissance woman is Loyola Professor Yxta Maya Murray, author of *The Conquest* (Harper Collins; 2002) and a professor of criminal justice.

Aside from the physical plant and holdings, the library's greatest asset is its reference staff, which includes many specialists. One is Paul Butler, the

Around [Campus]

library's foreign and international law librarian. He's a 1997 graduate of the Law School, who obtained a MLS from the University of Indiana in Bloomington before coming to work here.

Butler teaches legal research to first-year students and provides training on foreign and international legal research to the staff of the *Loyola of Los Angeles International & Comparative Law Review*. Teaching, both in the classroom

the library's Internet access ports, helps students with BlueBook citation questions, and advises them on plotting research queries. Burch earned his law degree from Louisiana State University and his library sciences degree from the University of Missouri at Columbia.

This spring, the school was scheduled to participate in an extensive survey of perception of the library's collections and physical plant. The survey is being conducted by a consortium of Jesuit law school libraries led by Georgetown Law Center in Washington, D.C.

the more effective the building plan we'll put together."

He's already given some thought to the look of libraries in the 21st century. According to Nissenbaum, "The library of the future will be smaller but grander." More information will be available in a digital format, which means allocating space to rows of terminals rather than upholstered club chairs.

"It's a more stressful environment and much less comforting and nurturing than sitting down and reading a book," says Nissenbaum.

The challenge then is "to create an atmosphere that induces folks to think they're in a comfortable setting and fosters their work. Creature comforts will become more of an emphasis," he notes.

At the same time, the library should have an inspirational quality, he says. "There's a certain psychology when you walk into an imposing structure that casts a bit of awe and affects your ability to interact with the architecture and services."

"Just as courtrooms are designed to enhance respect for the rule of law, law libraries should reflect respect for intellectual endeavor," he says. "All this human knowledge that's stored in this building should be reflected in the physical structure itself." ♦

Professor of Law and Director of the William M. Rains Law Library Robert J. Nissenbaum, as of August 1, 2004, joined Fordham School of Law in New York as director of the law library and member of the faculty. Loyola Law School has convened a search committee to find a new director by the summer of 2005.

**The renovation,
which cost \$8.5
million, added more
than 400 Internet
ports and created an
83-workstation
computer laboratory.**

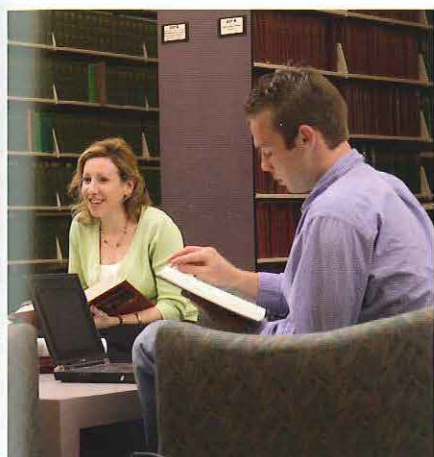
"We're going to be comparing ourselves to other schools in terms of service and collections," notes Nissenbaum.

What's in the library's future? Perhaps another expansion. "We will probably just run out of space in terms of collection size," he says. While he admits "there's still a question mark" on whether there's support for a second renovation, he believes "the sooner we start talking about it,

and at the reference desk, is "the most rewarding aspect of my job," says Butler. "I enjoy interacting with the students and helping them develop some of the skills that they will need as future attorneys."

That's true, too, of computer services librarian David Burch, another part-time legal research instructor. He enjoys "getting to work with a small group of students who keep coming back to me with questions for the next two or three years."

As part of his responsibilities, Burch arranges training sessions in Lexis and WestLaw, answers questions on using



Career Services emphasis on *Service*

By Graham Sherr

Assistant Dean, Career Services

I write this article just upon returning from the annual educational conference of the National Association of Law Placement (NALP). For career services professionals, the NALP conference is an extraordinary annual rite: intensive continuing education coinciding with a marathon of professional networking. The various educational sessions afford wonderful opportunities to learn new ideas for enhancing existing programs that we provide our students at Loyola as well as ideas for new programs.

One of the ancillary benefits for a seasoned veteran of the "placement wars," such as myself, is the opportunity to assess our own Office of Career Services against the benchmark presented by the various programs. As I listened to various presenters describe student programs and services, I found myself performing a sort of mental check list: We do that; we also do that; we already do that. While I may not have walked away with many new ideas, I did walk away with the affirmation and satisfaction that Loyola's very talented and very passionate Career Services staff is already doing a great deal of what many of our professional colleagues were being taught at the conference.

That we learned at least a few new tricks was worth the price of admission. And, had we learned nary a thing, but simply deepened relationships with existing employers and initiated relationships with new ones—that would have been enough! Because, after all, relationships are what drive the world, especially the legal world and also the world of legal career services and hiring. Throughout the conference, I found myself reflecting upon the value of Loyola's wonderful alumni network.

I have written before of the immense power of alumni to jumpstart students' careers by simply calling the Office of Career Services to place a law clerk or attorney job listing with us. Recently, a 2003 alumna who had herself been introduced to her employer through the auspices of the dean just a year or so ago, called to apprise me of an opening for a third-year student at her firm. Several students will be interviewed as a result. The importance of such calls requires no elaboration. As I often say: "This is why I get up in the morning." While there is probably no single act as important as apprising us of a job opportunity for a student or graduate, there are myriad other ways in which alumni make valuable contributions to our students and new graduates in preparing them for legal careers. Here are just a few examples:

Speaker Panels: Virtually every week of the school year, the Office of Career Services presents alumni speakers to inform students about various practice settings and specialties.

Mock Interview Programs: Alumni provide invaluable interview preparation to students by giving them mock interviews in advance of the real thing and providing candid, constructive feedback. Students consistently rave about how helpful they find these.

Informational Interviews: Alumni give students and new graduates opportunities to learn about their respective practice

areas in a friendly setting. These interviews also afford students a chance to hone vital networking skills.

Networking Fairs: It is axiomatic that professional success requires the development of effective networking skills career-long, whether for the job search or business development. Alumni participation in Career Services Networking Fairs provides vital opportunities for students and new graduates to learn and practice networking skills in conducive settings.

Career Information Days: Alumni return to campus to provide students with information about practicing with government and public interest organizations.

In addition to all these formal activities, alumni lend assistance to our students every day by fielding inquiries (by phone, e-mail and letter); walking résumés down the hall to the hiring attorney; and encouraging their employers to recruit Loyola students and graduates.

It is no small task to help generate employment for almost 400 graduates each year. But our task is aided immeasurably by the army of Loyola alumni who care enough to contribute in whatever way they can. To all of you who have contributed in some way toward helping our students and graduates reach employment, we in the Office of Career Services extend our sincerest thanks. And to those who have not yet had a chance to do so, I pray that this is your year and thank you in advance.

Contact Career Services at 213.736.1150 or at career.services@lls.edu. ❖

Many see the JD as their method of catapulting themselves into an honorable and intense profession. Others perceive the JD as a tool of learning that can be molded into additional areas of career building. In essence, the law degree has become the sturdy vessel that can withstand the test of time. The Loyola vessel has been hand-crafted from its foundation of prestigious alumni to help navigate the turbulent waters of the future. Applicants have become just as equipped with surviving the admissions process. Campus visits and extensive methods of statistical analysis have become the new life jackets amid the undertow of decision-making. The average student applies to three to five law schools. In many cases, students can wait until the last moment to point their sails in a different direction and directly impact the

configuration of the law school's incoming class. The admissions process is rapidly advancing toward the pinnacle of competition.

Over past years we have seen the changing terrain of the admissions landscape. In many ways it is similar to how waves crash into the awaiting rocks and leap far into the air upon impact. Applications are now flooding into law school admissions offices across the country. A number of schools are recording a dramatic increase in the number of applications received.

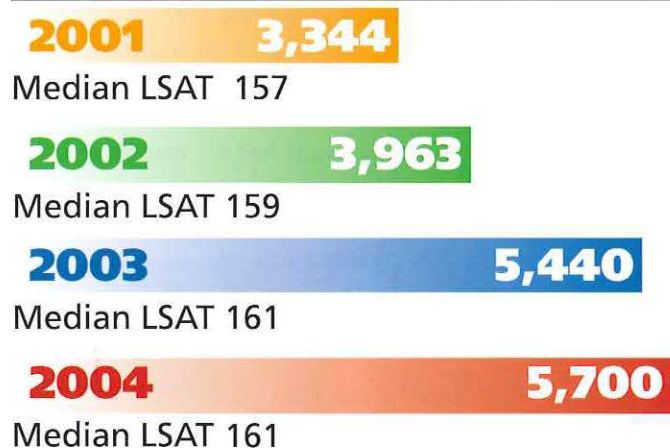
Where do we go from here? The answer is to forge ahead and aggressively compete nationally within the process of selecting students. Our academic curriculum, personable faculty, and strong alumni network provide the tools to extend our invitations to the best and the brightest the world has to offer. So, as we navigate the uncharted waters of the ocean of applications to come, we have built a stronger and faster vessel that is able to find those students gifted enough to become Loyola Law students. ❖

Navigating the Waters of **ADMISSIONS**

By Sonel Shropshire, Assistant Dean, Admissions

Loyola Law School has also felt the misty breeze from the impact. Our applicant pool was far stronger and larger than the record-breaking level from last year. Not only have we achieved strength in the total number of applications, but also in academic qualifications. Loyola's median LSAT increased to 161 in conjunction with an outstanding undergraduate GPA median of 3.4. This is attributed to our renewed dedication to finding the most qualified students. Nationally, we have attracted applicants that held acceptance letters from Yale, Harvard, NYU and USC. The breadth of experiences in our incoming class shows the diversity of intellectual concepts, backgrounds, and professional experiences. Every student brings a different aspect to legal learning.

Total number of applications by year



Riojas says he finds that the challenge facing most Loyola students is not academic, but personal.

"Many students have difficulty adjusting to life plus law school, and we try to make the transition a little more bearable in this academically challenging environment," he says. "Also, as the generations change, we seek to maintain a solid connection between the students and the law school."

To remain more attuned to the changing needs of the student body, the Office of Student Affairs assists in the design and implementation of an annual Student Services Survey that

OFFICE OF STUDENT AFFAIRS: Providing TLC

Loyola's busy Office of Student Affairs functions as the resident student ombudsman and as buffer for the dean's office and each of the five student services offices. Heading the department is Matthew D. Riojas '96 J.D. and '03 LL.M., director of student affairs, with the support of Christine Zeimantz, administrative assistant.

The office provides a variety of services to students, including but not limited to processing requests for disability accommodations; requests for exceptions to the academic rules; academic support to students in academic jeopardy; and personal and academic counseling. Students regularly drop by to be referred to the appropriate campus resource.

Zeimantz says the office takes pride in making students feel a part of the Loyola community beginning with new student orientation. The office also works with student groups in coordinating activities such as graduation celebrations of La Raza de Loyola, Black Law Students Association, and the Asian Pacific American Law Student Association.

Student Affairs is the first point of contact for students who are interested in creating student organizations. Riojas says, "We are the administrative liaison to students and assist their event programming efforts with organization, planning, and financial assistance. We are usually the place where issues are initially raised and resolved. In dealing with matters, we invariably rely on notions of fairness and due process to guide us."



measures student satisfaction with services they receive at the law school. The survey results are important and are taken very seriously, especially by Riojas who, as once a student himself, can personally relate to students and their experiences. ❖

**As the generations change,
we seek to maintain a solid
connection between the students
and the law school.**

THE EXAMINATION PROCESS HAS CHANGED

AND THE **TECH DOCTOR** IS IN!

Much like Lucy's psychological counseling stand in the comic strip "Peanuts," Loyola Law School's Information Technology Department (ITD) sets up a laptop and software help stand for a few days, just prior to spring and fall examinations. Equipped with a banner displaying the catchy phrase, "The Tech Doctor Is In," staff members Jun Melchor and Dan Weiss (pictured below) assist students one-on-one with questions about their particular laptop or the easy-to-use software Securexam. "About 95 percent of law students take their examinations on laptops, and that figure is expected to rise to nearly 100 percent in the coming year," says Weiss, associate director of Instructional Technology. Very few students handwrite their examinations anymore, and the typewriter is history. The benefits of computerized exams are that today's law student may write more text within the time allowed, use the spell-check function, and move text around to re-organize answers. Faculty members also are generally pleased, as they do not have to spend time interpreting penmanship. And no,

a student cannot cheat; the software blocks all other programs including email, word processing programs and law databases. Less than one percent of the students using the software experience technical problems during an examination, and if they should, they always have the prerogative to fall back upon a bluebook at the last minute. Weiss adds, "About 50 to 100 students stop by the stand each semester during their lunch period or just before evening classes with such questions as, 'I have the software, do I need to update it?' and 'How do I save an exam when finished?'" Since approximately 40 percent of students started using laptops for exams in 1998, more and more of them have gravitated toward it as a necessity for law school success. "Naturally, some students come to us displaying a little trepidation before their first computerized exam," says Weiss. "But oftentimes they come back to me immediately afterward, just to say thanks and let us know that everything went as planned." ❖



It is no small task keeping a facility that supports a community of 1,625 persons (1,425 law students and 200 faculty and staff members) sparkling clean, safe, and in top-notch operation. Yet, the dedicated staff of Housekeeping, Physical Plant, and Security take meticulous care of the 185,000 square feet of grounds and nine buildings every day of the year.

Steadfast Care Makes Loyola Law School's Campus Welcoming



Is maintaining the quality of the Law School's campus easy work? Obviously not, but the three Loyola departments make it happen. Carpets are cared for and windows shine. Not even a fallen luncheon napkin will escape an eagle-eyed member of housekeeping, who will deftly sweep it up. Try and imagine running a home with 37 restrooms free of impurities or clogged drains, or walking around one's property 24-hours-a-day to keep those within secure. Whatever time of day, the dedication and hard work of the team members is evident as one strolls about the campus. Anything amiss is attended to immediately. The surroundings are pleasant and inviting, and make for comfortable, safeguarded study and meeting areas both indoors and out.

FINANCIAL AID Offers Successful Postgraduate Seminar

By Debbie Esparza

Assistant Director, Financial Aid



Three years ago, the Office of Financial Aid implemented an innovative idea in which recent graduates were invited to return to Loyola for an evening of food, friends, and *FFELP* fiscal management? Yes, that's right—*FFELP* fiscal management. While many may not be familiar with the term *FFELP*, an acronym for "Federal Family Education Loan Program," most are familiar with "student loan repayment." Thus, with the idea of providing alums about to enter repayment on their student loans with up-to-date information on how to effectively and successfully manage their student loan debt, the postgraduate seminar was born.

Generally, students receive information on managing their student loans by completing the federally required exit interview. So, why the need for a seminar after a student has graduated? According to Maureen Hessler, director of financial aid at the Law School, "We found that in March and April prior to graduation, when our students are typically completing their loan exit interviews, the focus is not on how to manage their student loans; it is on finals and studying for the Bar. It isn't until after they have graduated, taken the Bar, and are nearing the end of their

on credit issues, financial planning, and of course, loan repayment strategies and consolidation. As an added benefit, both Hoyt and Hessler saw it as an opportunity for alums who may not have seen each other since graduation to get together again for a common interest, in a familiar place.

With 85 percent of students receiving financial aid to attend the Law School and an average loan debt of \$82,000 at graduation, it is not surprising that the concept of providing valuable information, along with camaraderie,

With 85 percent of students receiving financial aid to attend the Law School and an average loan debt of \$82,000 at graduation, it is not surprising that the concept of providing valuable information, along with camaraderie, has proven to be a successful one.

really interested in this information."

Originally the brainchild of John Hoyt, executive director of student financial services, the seminar was envisioned as being a valuable service the Law School could provide for its newest graduates—especially with the issue of debt consolidation coming to the forefront, as it has most recently—enabling alums to make informed decisions concerning their student loans. He challenged his staff to make the vision a reality. And the financial aid staff did just that. They developed a program in which experts provided information

has proven to be a successful one. Attendance has increased over 65 percent in just three years. And Nellie Mae, a prominent student loan lender, adopted the Law School's program as part of its nationwide debt management strategy. Based on the overwhelming interest in the program, the office of financial aid hopes to expand the seminar by 2005 to an all-day Saturday program that will allow more time for each session, as well as include additional services such as one-on-one financial planning counseling sessions. ♦

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History of the Red Mass

The first recorded Red Mass, a special Mass for the Bench and Bar, was celebrated in Paris in 1245. In England, the tradition began about 1310, during the reign of Edward I. The entire Bench and Bar attended the Red Mass together at the opening of each term of Court. The priest and the judges of the High Court wore red robes, thus the Eucharistic celebration became popularly known as the Red Mass. The tradition of the Red Mass has continued in the United States. Each year in Washington, D.C., the members of the United States Supreme Court join the President and members of Congress in the celebration of the Red Mass at the National Shrine of the Immaculate Conception. The Red Mass is also celebrated in most other state capitals and major cities throughout the United States.

The Continuing Battle for Gender Equality in Reproductive Health

By Brietta Clark, Associate Professor of Law

In June 2001, in *Erickson v. Bartell Drug Company*, a Washington District Court held that an employer's decision not to cover prescription contraceptives as part of its prescription benefits plan was sex discrimination in violation of Title VII of the Civil Rights Act, as amended by the Pregnancy Discrimination Act (PDA). This case was widely publicized as an example that Title VII can be a powerful tool for ensuring gender equality in employment-based health care. Less well known is that plaintiffs have used Title VII to challenge exclusions of infertility treatments, but with little success.

These cases are significant for two reasons. First, they illustrate the danger of discrimination in the allocation of employment-based health care benefits. Such discrimination represents the nexus of a long history of pregnancy-based employment discrimination and a devaluation of women's reproductive health care—a nexus that compounds several harms to women. Women are disadvantaged financially because they are denied the complete insurance benefits afforded men. Lack of insurance coverage also typically means a denial of medically necessary care, causing physical, emotional, and further economic harm. Finally, differential treatment of women's reproductive health may reflect stereotypes about and further stigmatize women with respect to their gender roles and sexuality.

These cases are also important because they present competing visions of the role of civil rights law in challenging benefits exclusions. *Erickson* reveals the promise of Title VII as a powerful tool for combating discrimination in employment-based health care. Other cases, however, present a picture of a watered-down Title VII that targets only the most obvious forms of discrimination and allows benefits exclusions to go essentially unchecked. I will briefly explore how exclusions of reproductive health care implicate Title VII and the PDA and why *Erickson* presents the better legal framework for analyzing these exclusions.

TITLE VII AND THE BIRTH OF THE PDA

Title VII prohibits discrimination on the basis of sex in all aspects of employment, including discrimination with respect to the "compensation, terms, conditions, or privileges of employment." To make out a *prima facie* case, the plaintiff must allege that an employer's policy intentionally treats men and women differently (disparate treatment) or that an otherwise neutral policy falls more harshly on men or women (disparate impact). The burden then shifts to the employer to rebut it by producing evidence of a legitimate, nondiscriminatory reason for the policy.

Although this prohibition explicitly applies to the provision of fringe benefits, such as health insurance, courts have resisted attempts to use Title VII to challenge benefits exclusions. This resistance was exemplified in 1976 in *General Elec. Co. v. Gilbert*. In *Gilbert*, plaintiffs challenged an employer's benefit plan that excluded pregnancy-related disabilities from an otherwise comprehensive short-term disability policy. In a divided opinion, the Supreme Court held that the exclusion did not constitute a sex-based classification in violation of Title VII. It found a lack of identity between gender and the pregnancy-based exclusion because not all women would be adversely affected by the exclusion. The classification was not between men and women, but rather between pregnant and nonpregnant persons. Second, it relied on the facial parity of coverage for men and women for finding no disparate impact or treatment. Men and women had "equal access" to the same benefits because there was no condition for which men were covered while women were excluded.

The dissent criticized the majority's approach on three grounds. First, the majority failed to recognize the pregnancy exclusion as sex-linked, given that pregnancy is a risk uniquely borne by women. Furthermore, rather than rely on the facial parity of covered conditions, the court should have examined the employer's treatment of sex-specific conditions to compare the comprehensiveness of coverage for men and women. Finally, the majority merely deferred to the employer's justification for the exclusion and failed to examine it to determine if it was really pretext for discrimination. The dissent's view ultimately prevailed when Congress amended Title VII through the Pregnancy Discrimination Act of 1978. The PDA defined discrimination "on the basis of sex" to "include ... discrimination on the basis of pregnancy, childbirth, or related medical conditions" and made clear that the prohibition applied to the allocation of insurance benefits.

THE PROMISE OF TITLE VII AND THE PDA: WHEN DO EXCLUSIONS OF REPRODUCTIVE HEALTH CARE CONSTITUTE GENDER DISCRIMINATION?

The PDA affirmed two important principles. First, antidiscrimination law is an appropriate tool for challenging benefits exclusions. Second, pregnancy-related classifications should be scrutinized closely because of the potential for gender bias. These principles should inform our application of Title VII in other areas of reproductive health: namely, exclusions of prescription contraception and infertility treatments.

Prescription contraception exclusions implicate Title VII in several ways. The most obvious is that prescription contraception is only available to women; thus, only women are affected by exclusion. Financially, women bear the cost of purchasing prescription contraception—approximately \$400 per year. While this amount may seem insignificant, the cost is prohibitive for many. This leads to an even more serious harm—denial of treatment to prevent conception. This is where the principles of the PDA and the relationship of prescription contraception to pregnancy become critical. While both men and women have an interest in controlling conception, the failure to prevent conception

THE PROMISE OF TITLE VII AND THE PDA:

When do exclusions of reproductive health care constitute gender discrimination?



Continued on page 89

Loyola

[Programs]

The director of Loyola's legal writing program, Professor Arnold I. Siegel, is very clear about the skills students are expected to master.

Ethical Lawyering almost exclusively," he notes. Previously the course was taught by faculty members on a rotating basis. It took six years to make the transition to the current staff made

The prerequisites are "a really good education and first-rate practice experience, which is important because they also teach the Ethical Lawyering course in their second year," he says.

When

LESS IS MORE

THE SKILL OF LEGAL WRITING



In the digital age, "speed, clarity, precision and succinctness are increasingly important," he observes. "Lawyers are deluged with information and have to make their points really quickly."

"We're trying to get them to be effective early on, because from what we know about practice today, you don't have two years to prove yourself," says Siegel. "You've got to show your employer that you're good from the get-go."

To meet those challenges, the law school began hiring a specialized faculty nearly a decade ago.

"In 1996 we started to hire full-time faculty to teach Legal Writing and

up of Siegel, seven full-time clinical professors who specialize in these areas and one part-time instructor.

"The advantage of having specialists is having people who are dedicated to making this their career," says Siegel, who has taught at Loyola since 1977. "They've developed real expertise about the pedagogical issues of teaching to a wide range of students. They're also skilled at teaching persuasive writing, which involves a special awareness of audience."

Who is interested in a career teaching legal writing? Plenty of topflight lawyers with substantial practice experience, it turns out.

"The quality of the people we've hired is remarkable," Siegel comments. "When we place an ad for a position, we get hundreds of résumés. We can be very choosy."

In addition, they must have taught either legal writing or ethics at the law school level. "I really look for that," emphasizes Siegel.

"Another thing I'm looking for is someone who really wants to be a teacher and who's committed to this institution," he adds. And committed they are, since the department enjoys zero turnover. "This says something about them and about the law school," Siegel comments.

His three most recent hires are Associate Clinical Law Professors Michael R. Beeman, Cindy Archer and Mary F. Dant.

Beeman, who teaches both Legal Writing and Ethical Lawyering, is a graduate of Columbia Law School, where he was a Harlan Fiske Stone Scholar and editor-in-chief of the law review.

He clerked for the late Hon. Alvin B. Rubin of the U. S. Court of Appeals for the Fifth Circuit before working at several large Los Angeles law firms in commercial litigation and entertainment law. Before joining the Loyola faculty, he was an instructor in the Lawyering Skills I program at the University of San Diego School of Law.

"The quality of the people we've hired is remarkable," Siegel comments.

"When we place an ad for a position, we get hundreds of resumés. We can be very choosy."

Hired in 2001, Dant, a graduate of Columbia Law School, also teaches both Legal Research and Writing and Ethical Lawyering. She distinguished herself in law school as a Stone Scholar and articles editor for the *Columbia Journal of Law and Social Problems*. After graduation, she worked at Gibson, Dunn & Crutcher and Horvitz & Levy handling civil trial litigation and appeals in state and federal courts. She also has represented indigent clients in administrative law hearings as a volunteer attorney for Bet Tzedek Legal Services.

Cindy Archer, associate clinical professor, joined the writing staff in 2000. She teaches Introduction to Negotiations along with Ethical Lawyering and Legal Research and Writing. A graduate of Georgetown Law Center, she coached the national champion Frederick Douglass Moot Court Team, was a legal writing teaching fellow and taught consumer law in the District of Columbia Correctional Facility. After law school, she practiced as a business lawyer with large law firms in Los Angeles and Detroit before joining the Costa Mesa office of Sheppard, Mullin, Richter & Hampton LLP. She was with the firm for seven years as a commercial transactions, employment law, and insurance specialist.

His staff is both collaborative and congenial, says Siegel. "One nice thing is that we share a database of exercises, materials and class notes. We meet on a regular basis and can say, 'Hey, I tried this and this worked

well in my class'. And while there's some uniformity in the curriculum, which has a common syllabus and a set number of assignments, there's also room for individuality and creativity," says Siegel. Instructors can select their own books and customize the course in other ways.

According to Siegel, the biggest change in the curriculum has been the effort to integrate research and writing. Students previously were taught research in the fall and writing in the spring. "Now they get six weeks of writing the minute they get into law school," he says. This is followed by a course in traditional legal research. During the second semester, students learn online research and complete an office memorandum of points and authorities.

The decision to give students a trial-level brief instead of the appellate briefs is quite strategic. "We want our students to be prepared for what they're actually going to be doing," says Siegel. To make

sure that's happening, he makes a point of talking to students after they've started clerking. "We discuss whether they felt prepared and whether they knew what they needed to get started as lawyers. By and large, we hear that we are doing a good job."

What about students who don't hit the ground running? The school has a legal writing tutor, Paul Van Blum, a lawyer and a professor of African Studies at UCLA. "For some students, it's easier to go to someone who is not their professor. They just feel more comfortable."

What's on the horizon for the program? "I'm thinking of surveying students in their second and third years after they've had some work experience to see how they evaluate their instruction," says Siegel. In a demanding marketplace, Loyola's Writing Program is working to remain a step ahead. ♦



The faculty members comprising Loyola Law School's legal research and writing team are [l to r] Cindy Archer, Christopher Hawthorne, Jean Boylan, Mary Dant, Judy Fonda, Michael Beeman, Arnold Siegel (director), Scott Wood, Sarah Bensinger and Susan Smith Bakhshian.

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CELEBRATES A DECADE OF SERVICE

PLEASE JOIN US OCTOBER 14, 2004

The Loyola Law School Center for Conflict Resolution (The Center), a mediation program run by professionals and staffed by Loyola Law School externs, is celebrating 10 years of helping nearly 20,000 Los Angeles area residents to resolve difficult issues. The Center has saved Los Angeles residents hundreds of thousands of dollars in litigation fees, assisted many thousands of people to find solutions to their legal and everyday problems, and trained numerous organizations and individuals in the mediation process.

As part of Loyola Law School's commitment to public interest, the school's on-campus Center provides critically needed alternative dispute resolution (ADR) services to low-income and Spanish-speaking residents of Los Angeles County who often do not have access to legal assistance or to the court system. The past year, The Center began its court-connected program and successfully resolved hundreds of disputes for the legal community. The courts and the United States Equal Employment Opportunity Commission refer cases directly to The Center.

The Center was originally founded by the late Bill Hobbs, along with Marta S. Gallegos, associate director. The Center continues under the direction of Mary B. Culbert '84, associate clinical professor. Staff mediators

include: Sara Campos '99, Gabriela De Anda, Monica Ruvalcaba Gerken '98, Damon Huss '03, and John S. Rodriguez. New additions to the staff include Ivette Longworth, conflict resolution coordinator, and Kristina Tatta, secretary.

The Center achieves its mission by providing no-cost mediation services to low-income communities, by assisting the courts in providing ADR services to the legal community, and by training lawyers and others to understand the benefits of mediation. The Center provides mediation and conciliation (telephone mediation) services to hundreds of satisfied clients each week, resolving over 85 percent of its cases. Any conflict might be resolved in this way if the parties are willing to try.

At The Center, professional mediators co-mediate with Loyola Law School students. Services are offered in English and Spanish. All services are offered free-of-charge or on a sliding-fee basis to those who can afford to pay. Los Angeles County residents are encouraged to call for assistance: 213.736.1145.

The Center regularly conducts mediation trainings. To date, The Center has trained over 1,000 individuals and more than 300 community groups. During the months of November 2004 and February 2005, The Center will provide two 30-hour mediation trainings (seating is limited) that satisfy the training required to mediate in most community and court programs. To receive information or to register for our trainings please contact Kristina Tatta at 213.736.1083. Requests for specialized training for a group may also be directed to Ms. Tatta or by calling The Center.

The Center looks forward to serving you, and to seeing you at the 10-Year Anniversary Celebration on October 14, 2004 honoring all those whose hard work and dedication contributed to "A Decade of Service." Please join us. ♦



The Center For Conflict Resolution staff are [l to r]: Mary B. Culbert (director), Monica Ruvalcaba Gerken (mediator), Marta S. Gallegos (associate director), Damon Huss, Gabriela De Anda, John S. Rodriguez (mediators), Ivette Longworth (coordinator), Sara Campos (mediator) and Kristina Tatta (secretary).

A POTENT FORCE FOR CHANGE

Bringing
the Community
Together

Loyola is not just another law school. It was founded in an era in which Catholics, Jews, and minorities were systematically excluded from law school, law, and the levers of power. It was founded to empower those on the outside, to bring into the heart of the Los Angeles community those who had been forced to its periphery.

ITS MISSION:

The Law School should be distinguished by its concern for social justice. It should continue its efforts to provide opportunities for legal education to the poor, the underprivileged, women, and minorities. It seeks to educate men and women who will be leaders of both the legal profession and society, demonstrating in their practice of law and public service the highest standards of personal integrity, professional ethics, and a deep concern for social justice... It should act at all times in a manner consistent with those values.



And it has been successful. Loyola is now ranked among the top 10 law schools in the United States in the diversity of its student body. For more than 75 years, it has provided leaders for all of Los Angeles—indeed, of the West's—diverse peoples, and it continues to do so today.¹

Loyola was the first ABA-accredited law school in California to require *pro bono* service as a condition of graduation. The purpose of the requirement is to expose students to their ethical obligation to perform public service work, consistent with a lawyer's professional responsibility to provide legal assistance to those unable to afford traditional legal representation. Pursuant to this requirement,

Loyola students contribute their services to more than 100 other Los Angeles-area non-profits working for the public good. Every year the Law School provides around 30,000 hours of student time to such organizations, in addition to another roughly 30,000 hours of student time provided to courts and governmental organizations.

Loyola Law School also puts its money to work for public interest. Loyola is one of the few schools in the country that provides its own fellowships for its graduates to pursue public interest careers. The Loyola Post Graduate Fellowship Program awards two fellowships each year on a competitive basis for graduating students.

**Loyola is
concerned that
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public interest
law may be
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massive burden of
debt undertaken
to complete
law school.**

Each summer, Loyola Law School, through its Summer Public Interest Employment Program, funds 70 law students through work-study: 60 in traditional public interest and 10 in government. Students can work at a public interest agency of their choice. Loyola's Summer Grant Program is one of the largest in the country.

Loyola's Public Interest Loan Assistance Program provides loan repayment assistance to graduates working in public interest law. Graduates may receive assistance for five years; the amount is dependent upon how many applicants there are and the relative salary and indebtedness of each applicant. Loyola is concerned that its graduates who plan a career in public interest law may be deterred by the massive burden of debt undertaken to complete law school.

Each year, six incoming students are selected as public interest scholars under the Public Interest Scholar's Program. These are students who demonstrate both a strong commitment to public interest issues and high academic achievement. They receive a full scholarship, participate in public interest activities, and are mentored by both faculty and alumni.

In 2001, the Law School created the Public Service Corps Fellowship Program. The program is designed to give recent Loyola Law School graduates the opportunity to gain legal experience and assist organizations that serve the public good. Fellows work during the time between graduation and starting their permanent post-graduate employment.

THE CENTER FOR CONFLICT RESOLUTION

The Center is an on-campus program that provides community-based mediation, conciliation, and facilitation services. Students receive extensive training and are assigned actual cases and clients. The Center for Conflict

Resolution provides numerous trainings for the community on dispute resolution, working with personnel from more than 300 non-profit and government organizations. It is second only to the state court system in the volume of disputes it handles in Los Angeles County each year. Over the past 10 years, it has assisted more than 20,000 individuals.

THE WESTERN LAW CENTER FOR DISABILITY RIGHTS

The Western Law Center has been on campus at Loyola Law School since 1983. It is the only non-profit law clinic in Southern California that specifically serves people with disabilities. More than 4,800 people receive assistance from this Center each year.

THE CANCER LEGAL RESOURCE CENTER

This project conducts educational seminars for cancer patients and their families, social workers, health care professionals, and other interested

**A
strong
commitment
to
public
interest.**

groups and individuals. The seminars cover the areas of employment discrimination, access to health care, insurance, family law, and wills and trusts. Students assist in producing materials, providing follow-up, and doing legal research. Students also handle incoming requests for assistance.

otherwise at-risk students, including students in the juvenile justice system, students skipping school, and children in foster care. Since inception, the Project has provided direct assistance to more than 300 students and trained more than 1,050 families to advocate for themselves. It has also trained

General Relief recipients at the Department of Public Social Services throughout Los Angeles County. Participants are trained to advocate on behalf of impoverished, hungry, and homeless individuals in applying for their general relief benefits. Over the past two years, many Loyola

Students receive extensive training and are assigned actual cases and clients.

THE DISABILITY MEDIATION CENTER

A community-based program, the Center provides general mediation services to over 1.2 million persons with disabilities in Los Angeles County free of charge. Students are provided with excellent training and the opportunity to personally mediate disputes.

CIVIL RIGHTS PROJECT

Lawyers with the Center's Civil Rights Project help people with disabilities resolve difficulties in receiving acceptance from the institutions in which they work, shop, and otherwise participate. In addition, the Center brings cases with regional, sometimes state-wide implications, working to make Los Angeles—and indeed, all of California—more inclusive of all peoples.

LEARNING RIGHTS PROJECT

The Learning Rights Project provides students with learning difficulties or disabilities with assistance in receiving appropriate educational services, focusing on low-income, minority, and

more than 150 assistant district attorneys who handle cases in the juvenile justice system.

THE VOLUNTEER INCOME TAX ASSISTANCE (VITA) PROGRAM

Each spring, under the supervision of a faculty member, Loyola students provide free income tax services to low-income persons. Last year, nearly 150 students donated 40 hours each to this program, serving individuals and families from the local community. VITA is sponsored by the Internal Revenue Service.

ADOPTION PROJECT

Working with Los Angeles Public Counsel, Loyola students and alumni work together to reduce the backlog of more than 10,000 pending adoption cases in the local court system.

GENERAL RELIEF ADVOCACY PROJECT

Loyola's Public Interest Law Foundation joined with the Public Counsel's Homelessness Prevention Project in 2000 to advocate for

law students have had the amazing opportunity to advocate on behalf of indigent persons, who have been wrongly denied General Relief benefits to which they are legally entitled.

The foregoing is, of course, only a partial list. The Law School sponsors or has sponsored many other targeted programs as well: the Honorable Stephen O'Neil Trial Advocacy Program (a moot court program for students from Belmont High and the Community College Foundation Independent Living Program); legal assistance through the First AME Church; participation in Break the Cycle; and fundraising for the Afghan Women's Project, among many others. ♦

¹ The September 2004 issue of Hispanic Business magazine lists Loyola as one of the top 10 law schools in the United States "offering the best opportunities for Hispanic students."

Loyola Law School has become a partner with Uncommon Good to help raise awareness and funds to help law school alumni continue to work in the poverty law sector. Each year three percent of the graduating class accepts legal positions with community-based legal clinics and nonprofit organizations. These new alumni have the same debt burden as those working in lucrative law firms. Too often, the pressure of paying that debt forces graduates to leave public interest practice for better paying positions. Uncommon Good provides programs of support to help ease debt burdens, in addition to the public interest loan assistance program from the Law School. Loyola Law School encourages alumni to make gifts to the Public Interest Department to help provide ongoing resources for this purpose.

Older, experienced attorneys were serving as administrators of the programs; newly graduated students were providing the legal representation; and mid-level practitioners were largely missing, leading to the program deterioration described below.

LOYOLA LAW SCHOOL

Partners with UNCOMMON GOOD

HIGH DEBT BURDENS

The cost of an undergraduate and law school education has risen to unprecedented heights in the past five years. Last year, the national organization Equal Justice Works published a study entitled, "From Paper Chase to Money Chase: Law School Debt Diverts Road to Public Service." The study determined that the median law school debt for students graduating now is more than \$84,000, not including undergraduate debt. Combined with undergraduate debt, new lawyers find themselves owing \$100,000 or more. The study also showed that 66 percent of students graduating from law programs reported that educational debt keeps them from even considering a public interest job.

In addition to keeping young people out of the legal aid profession, these historically high debts cause those who do accept legal services jobs to abandon those jobs soon thereafter. This phenomenon was revealed in 2001 when Uncommon Good conducted a study of all of the major legal aid programs in California to determine the effect that large educational debts was having on legal services lawyers. It discovered that there was a sharp dropout rate because of school loans after the second year of legal aid employment, with further precipitous drops in subsequent years.

UNCOMMON GOOD TO THE RESCUE

Uncommon Good was formed in 1999 and incorporated in 2000 as a non-profit charitable organization. It was begun by Nancy Mintie, the attorney who founded the non-profit Inner City Law Center in Los Angeles and served as its director for 18 years. Mintie was distressed to see the deterioration in the quality of legal representation available to the poor in Los Angeles. She also realized that one of the main reasons for this deterioration was young lawyers leaving the legal aid field at such a rapid rate because of their overwhelming educational debt. She saw struggling legal aid lawyers in Los Angeles who fell behind in their rent and taxes, who had to turn off their own utilities for lack of money to pay the bill, who were taking night jobs as census counters and musicians to add to their income, and who could not afford a functioning car for transportation.

Mintie wanted to do something to help idealistic attorneys remain in service to the poor. Consequently, she founded Uncommon Good to address this issue. Since that time, the organization also has developed projects to help with the educational debt burden of health professionals who staff Los Angeles County's free clinics, and to help children of low-income families obtain the education they need to escape poverty.

Uncommon Good is governed by a 23-member board of directors. Eleven of the members are prominent Los Angeles attorneys, including Thomas J. Nolan '75, a partner with Skadden, Arps, Slate, Meagher and Flom LLP and the Honorable Carla M. Woehrle '77 of the United States District Court, Central District of California. The remaining members are public health physicians, business people, and educators, including Professor Sande Buhai '82.

LOYOLA GRADUATES AMONG THOSE BEING ASSISTED BY UNCOMMON GOOD

While there are numerous law school graduates whom Uncommon Good is seeking to assist with debt relief, one of Loyola's alums stands out among the names on the list: Dora Lopez '96. Uncommon Good has been funding her for the past few years and would like to keep her in its program, with the help of additional funds.

Lopez grew up in the slums of Los Angeles and now helps to support her mother and younger brother. In the eight years since graduating from Loyola Law School, she has become one of the leading attorneys at Neighborhood Legal Services, the legal aid organization that serves half of Los Angeles County. One of her specialties is helping impoverished women make the transition from welfare recipients to members of the workforce.

Lopez owes \$855 a month over and above what Loyola's debt relief program provides, and has continually turned to Uncommon Good for assistance. The Loyola Law School graduates who Uncommon Good is also trying to assist include two alumni in employment law at legal aid

foundations in Los Angeles and four graduates in family law at the California Women's Law Center, Levitt & Quinn Family Law Center, Inc., Harriet Buhai Center for Family Law, and Legal Aid of the Bluegrass in Kentucky. ❖

YOU CAN HELP

You can provide assistance by making a tax-deductible gift to either Uncommon Good or Loyola Law School. Your contribution will make a difference in the life of an attorney, who in turn is trying to make a difference in someone else's life.

Uncommon Good

435 Berkeley Avenue
Claremont, California 91711

Telephone 909.625.2248

Email uncommongood@uncommongood.org

Loyola Law School

919 Albany Street
Los Angeles, California 90015-1211
Office of Advancement
Re: Public Interest

Telephone 213. 736.1025

Email ken.ott@lls.edu

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NOVEMBER 18 & 19, 2004 • LOS ANGELES MARRIOTT DOWNTOWN

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- CEOs & CFOs of Tax-Exempt Organizations
- Directors & Trustees of Non-profit Organizations

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At the Intersection of **LAW** and TECHNOLOGY

By Professor Karl Manheim

It has been 135 years since Harvard Law School Dean Christopher Columbus Langdell transformed American legal education with his “case book method” of instruction. According to Dean Langdell, “Law, considered as a science, ...has arrived at its present state by slow degrees; in other words, it is a growth, extending in many cases through centuries...the only way of mastering the doctrine effectively is by studying the cases in which it is embodied.”

At the dawn of the 21st century, American law schools still mostly follow Langdell. Every lawyer and judge in America has been schooled in this manner. We learn law by studying what has gone before. Change occurs incrementally, “by slow degrees.”

To a large extent this is good. Law serves as a calming force, mediating the impacts of political, social, and technological change. Law is our connection to the past, not out of any nostalgic romanticism, but to provide the certainty and predictability our social and economic institutions require. But, in the new technological age, the “slow” approach is no longer viable. Old ways of doing, teaching, and thinking about law are fundamentally obsolete. Nary a legal doctrine or jurisprudence will survive intact the present ferment.

We are living in a scientific and technological revolution. The Internet has transformed communication and fueled the explosive growth of e-commerce. Mapping the human genome will forever alter medicine and the understanding of life. Nanotechnology will blur lines between organic, mechanical, and electrical systems. Globalization of trade and information will make some national economies blossom and others wilt. As we enter a new millennium marveling at the emergence of brave new worlds, we can easily fail to appreciate their profound impacts on the practice and teaching of law.

It took centuries to develop a sophisticated common law regime, one based on rights, property, and the rule of law.

It may take less than a decade for that regime to unravel, as core concepts lose meaning. Much of newly created property is not only intangible, it may also be unprotectable, at least through law. Long-accepted notions of privacy, identity, and causation, to name but a few axioms of modern societies, are under assault. Emerging technologies, for better or worse, are threatening settled expectations. Are we ready for the upheaval that lies ahead?

**We are revamping
our curriculum to reflect the
transformative effect
technology has had and
will continue to have on law.**

Here's an example, perhaps with special meaning to litigators. Until two years ago, the total amount of information produced by humans throughout history, measured by written and spoken words, was estimated to be approximately five exabytes (an exabyte is a billion gigabytes). In one year alone—2002—that amount more than doubled. To put this in perspective, if all the information produced during 2002 were on paper, it would require a half-million new Libraries of Congress to store. Fortunately, less than 1/100th of one per cent of human communication is now on paper. So how do you introduce evidence of the other 99.99 percent variety at trial? And how confident are you of its authenticity?

d go on, giving countless examples of how traditional of doing and thinking about law are becoming ere, such as how Congress created *in rem* jurisdiction nternet domain name disputes—at the physical situs of omain name. Good luck finding that! Or how the am that decodes encrypted DVDs was propagated to f thousands of computers worldwide within seconds ing adjudged illegal and ordered off the Internet. (You t want to ask your kids how that works.) “Information wants to be free,” we are told, notwithstanding an erate legal regime that purports to control access and ution of copyrighted works. Or how business plans, n genes, and entire life forms can now be patented, so as they’re “useful.”

a strange time we live in, during this transition from cal to cyber space, from actual to virtual reality, linear to multi-dimensional thinking, from the rule of o technology rules.

courses in technology and law. And we’ve begun to integrate technology-driven doctrine into core courses (e.g., cyberjurisdiction in Civil Procedure). Students these days, it seems, have an insatiable appetite for these offerings, even though the concentration would have seemed out of place just a few years ago. Classes such as biotechnology patent prosecution, technology and privacy, technology transfer and licensing draw crowds.

Third, our relationship with the California Institute of Technology continues to grow and attract students. The Program for Law and Technology, which we co-host with Caltech, is in its fifth year. Our annual conference, “At the Crossroads of Law and Technology,” grapples with emerging problems, such as litigating in cyberspace, patenting the human genome, and protection of digital media. We put the best student minds to work at the two schools, solving these problems through the vehicle of mock trials with real judges and real experts in the respective fields. This year’s

The Program for Law and Technology was inspired (and generously funded)

by Henry Yuen, a joint alumnus of Caltech and Loyola.

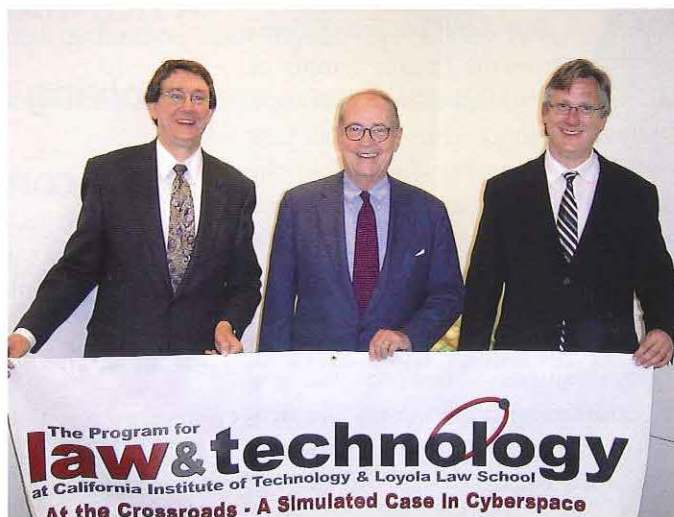
are lawyers and policymakers doing about this? How e cope with the exponential change affecting our lives ur planet? All too often, the response is inadequate, nceived, or downright scary. It may be trite to say that ican law schools have a responsibility here, not only ovide future generations of lawyers and judges with the to solve technology-based legal problems, but also to icipate in and inform policy formation in the first place.

la has responded to the challenge in a number of ways. in terms of pedagogy, Loyola is developing one of the echnologically advanced campuses in the country. We eployed wireless Internet access in classrooms and c spaces (including outdoor common areas). We have tted nearly every classroom with advanced presentation ology. Many of our classes are digitally recorded and d on the school Intranet; some are streamed live over nternet. And the Girardi Advocacy Center houses the rtroom of the future” (two of them, in fact) where true onic trials can take place. This includes everything from te witnesses to management of electronic evidence. It is a place to behold.

nd, we are revamping our curriculum to reflect ransformative effect technology has had and will nue to have on law. We’ve expanded on our impres- intellectual property curriculum by offering new

case, *United States v. Baltimore*, involved a criminal prosecution of a student and teacher who had hacked the “Broadcast Flag.” What’s that, you say? I hope you’re ready for this; maybe you should sit down. Starting July 1, 2005, video broadcasts will contain hidden code that controls the use and viewability of digital signals. To make

Continued on page 91



Richard Thornburg, former United States attorney general and governor of Pennsylvania [c] met with Loyola and Caltech students in the Program for Law & Technology during a March 2004 visit to the Caltech campus. The program is run by Karl M. Manheim, professor of law at Loyola Law School [l] and Ed McCaffery, visiting professor of law, California Institute of Technology (Caltech) [r].

international experience within a three-hour drive. Chief among these contacts have been a series of academic exchanges—weekend “road trips”—in which Loyola students have traveled to Tijuana and Ibero students have ventured north to Los Angeles. Associate Dean Victor Gold, International Programs Director Edith Friedler, and Professors Jeffery

Atik and Allan Ides have led Loyola’s participation in this initiative.

The first Loyola-Ibero academic exchange was held on March 14, 2003 in Tijuana, drawing students from Professor Atik’s NAFTA seminar and International Law class. A caravan of Loyola students, accompanied by Atik and Visiting Professor Jaime Saura, journeyed to the Ibero campus. The Loyola delegation was warmly met by Ibero faculty and students as well as many of the leading judges and lawyers from the State of Baja California.

The central topic of discussion was a NAFTA investment arbitration case, *Metalclad v. United Mexican States*, brought by a California firm that was frustrated in its attempt to open a waste disposal site in the Mexican state of San Luis Potosí. The case resulted in a substantial monetary award from the Mexican government—an outcome that would not necessarily have resulted under counterpart eminent domain notions in Mexican constitutional law. The debate on the case was conducted in both Spanish and English as many (if not most) of the Loyola and Ibero participants were bilingual. A rich discussion, involving quite subtle contrasts between Mexican and U.S. law, continued for several hours.

Loyola Law School hosted the next academic exchange, in which NAFTA again served as the focus for discussions. The visiting Ibero delegation was headed by Dean Elizabeth Corpi and Professor Victor Herrero and again included Mexican judges and lawyers as well as Ibero faculty and students. More than 50 Loyola students (including Atik’s International Law class) actively participated in the program. Two NAFTA labor cases were examined. The first was a NAFTA review of a “plant closure” involving a Sprint subsidiary in San Francisco; the second involved alleged pre-employment exclusion of pregnant workers in Mexico.

Academic Exchange: Crossing BORDERS



A team of lawyers, judges, law professors, and law students from the Tijuana campus of Universidad Iberoamericana (or Ibero for short) visited Loyola Law School on November 8, 2003 in the second of a series of academic exchanges between the Ibero and Loyola law schools. Universidad Iberoamericana is Mexico’s leading Jesuit university. Its main campus is in Mexico City. The Tijuana campus is fast-growing, and its architectural crown jewel is a new Loyola Library with a spectacular view of the Pacific.

Loyola and Ibero have established an exciting relationship that permits law students and faculty to have a rich

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and U.S. law,
continued for
several hours.**

Once again, the debate revealed significant contrasts in legal approaches between the United States and Mexico. The Saturday afternoon session was followed by a luncheon reception in the Loyola student lounge. Loyola students returned to Tijuana on February 13, 2004 for the third academic exchange, which was built around issues examined in Professor Friedler's Latin American Law seminar.

The central topic of the formal program was the recent amendment to the Mexican constitution providing special status to certain indigenous people. The Mexican constitutional solution was compared to U.S. equal protection jurisprudence and to the special legal regimen adopted in the U.S. with respect to Native Americans.

The relationship between Loyola and Iberoamericana is bearing fruit for both schools. Atik addressed the *Colegio de Abogados Constitucionalistas de Mexicali* in November 2003 and Ides will speak to them in 2004-05. Ibero instructor Leo Marchena was a guest lecturer in Professor Friedler's Latin American Law seminar in April 2004. There are on-going discussions concerning further collaboration between the two law schools, including possible joint clinics.

The Loyola-Ibero academic exchanges have been embraced by the student body. Tijuana is a completely different legal universe. The Loyola-Ibero program complements Loyola's long-term international programs (Bologna, Beijing, and Costa Rica), but adds the advantage of low cost and easy access. By taking advantage of our proximity to Mexico, Loyola is able to provide outstanding intellectual, cultural, and professional opportunities to its students over the span of a weekend—something few other law schools can match. ❖

The Western Law Center for Disability Rights (WLCDR) has received a \$50,000 grant from the S. Mark Taper Foundation of Los Angeles to renovate and expand its offices on the campus of Loyola Law School. The award

WESTERN LAW CENTER FOR DISABILITY RIGHTS

RECEIVES GRANT FROM S. MARK TAPER FOUNDATION

will allow WLCDR to add more office space, improve students' work stations, renovate the Disability Mediation Center, and create the new S. Mark Taper Foundation Conference Room. The grant will be matched by funding from Loyola Law School, which has hosted and supported the Center since 1983.

Not only will this gift have the practical effect of allowing WLCDR to work with more staff, students, and volunteers, but it also serves as recognition by the California philanthropic community of the value of the Western Law Center's work.

CAN **BUSINESS** **CO-EXIST** WITH THE **CIVIL JURY SYSTEM?**

SYMPOSIUM

October 1 & 2, 2004 • Loyola Law School, Los Angeles

THE SYMPOSIUM WILL convene PANELS, PLENARY SESSIONS, and a MOCK TRIAL to explore the impact of the civil justice system on business, and recent challenges to the tort system, such as damage caps and tort reform campaigns.

DAY 1: FRIDAY, OCTOBER 1

- The Tort System: Protector of Public or Destroyer of Business?
- Civil Lawsuits and Civil Rights: Is there a Connection?
- An Independent Judiciary or Unaccountable Judges?
- Roundtable: Damage Awards in Personal Injury Litigation

DAY 2: SATURDAY, OCTOBER 2

- Checks and Balances in the Tort System
- **The Civil Jury System on Trial: A Mock Trial**

For the Plaintiff: Thomas V. Girardi, Amy Solomon, Girardi & Keese

For the Defense: Robert C. Baker, Partner, Baker, Keener & Nahra, LLP
Darrell A. Forgey, Partner, Forgey & Hurrell, LLP

Presiding: Hon. Dennis Perluss; Hon. Daniel S. Pratt; Hon. Jacqueline A. Connor;
Hon. William F. Highberger; Hon. Victoria Chaney; Hon. Richard Wolfe

PANELISTS INCLUDE

Judges The Hon. Eric Taylor, President, California Judges Association
The Hon. William MacLaughlin, Asst. Presiding Judge, L.A. Superior Court

Journalists Floyd Norris, Business Columnist, The New York Times
Warren Olney, Host, "Which Way L.A.?" KCRW-FM
John Emshwiller, Reporter, Wall Street Journal
Tom Goldstein, Frank Russell Endowed Chair, ASU Cronkite School of Journalism & Mass Communication

Business Steve Hantler, V.P. and Asst. General Counsel, Daimler-Chrysler
Jeffrey Beyer, V.P. Corporate Communications, Farmers Insurance Group
Patricia DeDominic, Founder/Owner, PDQ Personnel Services Inc.; former Pres. L.A. Ch. of Commerce
Renee White Fraser, Fraser Communications; President, L.A. Chapter, Nat'l Assn of Women Business Owners

Lawyers Herb Wesson, Speaker Emeritus of the California Assembly
John Beisner, Managing Partner, O'Melveny & Myers (D.C.)
Bruce Broillet, Partner, Greene, Broillet, Panish & Wheeler, LLP
David Casey, President, Association of Trial Lawyers of America
Philip K. Howard, Founder/Chair, Common Good; Vice Chair, Covington & Burling
Bill Lann Lee, former Asst. Attorney General for Civil Rights, U.S. Dept. of Justice
David O'Keefe, Esq., Managing Partner, Bonne Bridges Mueller O'Keefe & Nichols
Sam Paz, Esq., Law Offices of Sam Paz
Mark Behrens, Esq., Shook, Hardy & Bacon

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Faculty

[Profiles]

Professor Gary C. Williams knows the ACLU of Southern California from the inside out—first as assistant legal director from 1979-85 and currently as the affiliate's president, a role he assumed in February 2002. Williams presides over the board of directors, represents the local unit at national board meetings, gives speeches, and does other community outreach. He admits that coordinating his ACLU duties with teaching classes in Evidence, First Amendment Law, and other subjects at Loyola "is a balancing act."



PROFESSOR

ACLU President / **Gary C. Williams**

"I feel very passionately about teaching and my students," emphasizes Williams, a graduate of UCLA and Stanford Law School, who joined the Loyola faculty in 1987. "When I was asked to run, I made it very clear that it would continue to occupy an important place in my life."

Education also figures prominently in his ACLU work. The Los Angeles branch—the ACLU's largest and oldest affiliate—is acting as co-counsel in *Williams v. California* (no relation), a class-action lawsuit alleging the state violated equal protection by failing to meet minimum standards in public education.

"There are horrendous inequalities in the California educational system," Williams says. "We have kids attending schools that don't educate or have adequate facilities or certificated teachers." In October 2003, the plaintiffs submitted expert testimony that California has 42,000 uncredentialed teachers—more than 25 other states combined. The schools having the highest proportion of unqualified instructors were in urban areas with predominantly low-income, minority students.

Making headway "is the number one issue for the ACLU of Southern California," says Williams.

Running a close second is protecting civil liberties in the wake of 9/11, a national initiative of the ACLU. On the local level, the Southern California office has filed discrimination lawsuits on behalf of Arab-Americans who were removed from planes or movie theaters. The affiliate is also urging local legislators to protest provisions of The Patriot Act dealing with FBI information gathering in public libraries. One success it can point to is the city of West Hollywood's passage last January of a resolution requiring librarians to notify patrons of their diminished expectations of privacy.

Williams, the first African-American to hold the office, considers the Southern California branch of the ACLU "blessed" because it is situated in a supportive environment compared to many other ACLU chapters.

"That gives us a special responsibility to get the message out," says Williams, who is serving his final term. ♦

The New
Director of the
Tax LL.M. Program



ASSOCIATE PROFESSOR

Jennifer Meier Kowal

Less than a year ago, Jennifer Meier Kowal joined the Loyola Law School faculty as associate professor and director of the Tax LL.M. Program, in which approximately 60 students were enrolled during the 2003-04 academic year. Kowal taught her first class this past spring: Income Taxation of Property Transactions, an advanced income tax class that is a core requirement within Loyola's Tax LL.M. curriculum. But her biggest challenge has been taking on the relatively young Tax LL.M. Program, now entering its fourth year and already included by *U.S. News and World Report* in the top ten in the field of tax law among U.S. law schools offering tax LL.M. programs.

"Thanks to the work of Professors Ellen Aprill and Ted Seto, the program was in great shape when I arrived," states Kowal. "But now the program is growing beyond the formation stage, and there needs to be a full-time director who will focus on making the program even better. That's where I come in. As our program has evolved, our student body has become more diverse in terms of experience and interests. We have experienced tax lawyers from large firms, small-firms, sole practitioners who have realized that tax law affects nearly every aspect of their practices, and lawyers transitioning out of other areas of practice into tax law. It's challenging to try to meet everyone's needs."

Kowal's long-term goals are making Loyola's Tax LL.M. Program nationally known to attract the best tax students from around the country, adding courses in a wider variety of areas and enhancing the curriculum with guest speakers, alumni events, and career development opportunities.

"It's very exciting to be part of a program that is new but already highly respected," Kowal adds.

Prior to joining Loyola Law School, Kowal worked as deputy director for educational programs at Harvard Law School's International Tax Program in Cambridge, Massachusetts.

There, she taught tax policy to students from around the globe, including those from developing countries who are helping their nations build and implement tax systems.

Kowal is drawn to the field of tax because, in her own words, "It's really just about problem-solving. There is a set of complex legal rules that one has to work with in reaching a goal." She says, "In the most difficult cases, the solution is far from obvious, so you must be really creative in figuring out how the rules will allow you to achieve the goal."

Why the move west?

"I wanted to move back to Los Angeles, where I had earned my law degree, at UCLA," said Kowal. "And, although the Tax LL.M. Program at Loyola is still new, I had heard many good things about it, so I jumped at the opportunity to direct the program and teach here. I think it has been a really good fit."

As for the school's faculty and staff, Kowal says "They are welcoming, friendly, and go out of their way to get to know you. I haven't been here long, but already I feel comfortable and the campus was a nice surprise. I expected a one-building, urban campus shadowed by skyscrapers, but instead found open courtyards, interesting buildings, and green landscaping. I've also been pleased with the high quality of Loyola's students and courses, and am particularly impressed with the law school's faculty and administration, who seem to have a good vision of where Loyola is going and how to get there."

The Kansas native's first legal position out of law school was with Irell & Manella LLP in Los Angeles, where she practiced for four years before joining Goodwin Procter in Boston. She then practiced with Ropes and Gray in Boston before joining the faculty at Harvard. At all three firms she served as a transactional tax attorney, handling corporate acquisitions, joint ventures, international transactions, and real estate transactions.

Kowal practiced law for five years and, upon having her first child (baby number two was slated to arrive at *Loyola Lawyer* press time), realized she did not want to go back to full-time practice. She sought out other options including teaching, and found herself choosing academia—with an intriguing offer from Harvard Law School to jump-start her second legal career.

Now that she has settled in Los Angeles with law classmate and spouse David Kowal, who is an assistant U.S. attorney in Los Angeles, and their family, Kowal says, "It has been a busy year with a lot of change, so I feel very lucky to have found such an interesting job in a wonderful community of colleagues and students." ♦

Professor Barbara A. Blanco

has always had a passion
for public interest law
and helping the underdog.

"I went to law school for only one reason—I wanted to be a poverty lawyer," she says. "I thought it was such an important social cause."

Blanco has become an expert in legal matters concerning the poor, from slumlords to other social abuses, and has made a name for herself righting many of society's wrongs. She proudly refers to a *Los Angeles Times* article that pictures her holding up giant rats found in a slum dwelling.

A self-professed service brat, Blanco grew up around the world while her father was in the Air Force.

"We lived in England, France, Spain, and Belgium to name just a few places," she says. "We moved constantly." The family finally settled in San Pedro during Blanco's high school years.

Prior to joining the Loyola faculty in 1989, Blanco was involved in the establishment of a non-profit law office known as the Tenant Defense Center, which was later incorporated into the offices of the Legal Aid Foundation as the Eviction Defense Center.

At Loyola, she teaches courses in ethical lawyering, animal rights law, and legal problems for the poor, and is the faculty externship director. She served as a commissioner of the City of Los Angeles Affordable Housing Commission from 1992-94. She is committed to *pro bono* work, much of which is done with horse rescue groups and riding academies for the disabled.

Blanco doesn't miss her days going toe-to-toe with the scum of the earth. "When I was a litigator I just got so tired of the hostility of litigation. It was a very uncivil world. I litigated a lot of the slum lawsuits." Now Blanco can relax a little. "I have a truck and a horse trailer, and I take my horse camping. It's pure relaxation."



CLINICAL PROFESSOR

Barbara A. Blanco

The off-campus externship program that she heads has been popular with Loyola students for well over 25 years. Loyola operates one of the largest and most diverse off-campus programs, offering opportunities in most state and federal government agencies, including prosecution and defense offices, as well as in state and federal judicial chambers and public interest law firms. Each year, between 200 to 250 students enroll for academic credit at approved agencies or courts. Loyola students contribute approximately 60,000 hours of legal services each year under the supervision of a lawyer or a judge in the program.

For most students, it is the first opportunity to experience first-hand the day-to-day operation of various legal institutions and the role of the lawyer in those institutions. It is often the first practical opportunity for students to use and hone legal research and writing skills, and observe the oral and written advocacy of the lawyers around them.

"The value of the off-campus externship in terms of networking with lawyers, to explore job opportunities and gain a coveted letter of recommendation is certainly not lost to those students who participate," Blanco says. ❖

Faculty

[Updates]

Members of the faculty are nationally and internationally renowned scholars publishing innovative works that influence the development and direction of the legal profession. They are legal experts who draft hundreds of articles and books; participate in symposium presentations; lecture at universities around the world; serve on bar association committees and volunteer in numerous organizations that benefit the public's interest.

Yet, they are also the same teachers who maintain an open door to encourage free and continuous interaction with their students. Students benefit from the extensive and varied practice experiences of the faculty, which includes former United States Supreme Court clerks, public interest lawyers, agency chiefs and law firm partners. The faculty is diverse and exceptional—here is an update of their recent accomplishments.



Ellen Aprill



Bill Araiza



Susan Smith Bakhshian

PROFESSOR ELLEN APRILL, (John E. Anderson Chair in Taxation) was one of three authors of the "ABA Section of Taxation's Report of the Tax Task Force on Judicial Deference," published in the spring issue of *The Tax Lawyer*. Aprill was chosen to become a member of the Council of Directors of the ABA Section on Taxation as well as member of the Board of Directors of New York University's Center on Philanthropy and Law. She continues to chair the planning committee of the Western Conference on Tax-Exempt Organizations sponsored by Loyola Law School and the IRS as well as to serve on the planning committee of the University of Southern California's Annual Federal Tax Institute, the Academic Advisory Board of the Tannenwald Foundation on Excellence in Tax Scholarship, the Investment Policy Oversight Group of the Law School Admissions Council, the Editorial Board of a new tax LL.M. textbook series, and the consultative group for the American Law Institute Project on the Principles of the Law of Non-profit Organizations.

PROFESSOR WILLIAM D. ARAIZA gave a presentation at Pepperdine University School of Law on "Section 5 and the Rational Basis Standard of Equal Protection Law." Araiza co-authored an *amicus* brief on behalf of professors of administrative law in *Southern Utah Wilderness Alliance v. Norton*, a case currently pending before the Supreme Court. Araiza's article, "Captive Audiences, Children and the Internet" was published in the *Brandeis L.J.* His article, "Court, Congress and Equal Protection: What *Brown* Teaches Us About the Section 5 Power" was published in the *Howard U. L. Rev.* as part of that review's *Brown@50* symposium volume. He spoke with Professor Allan Ides '79 at the AALS Annual Conference in Atlanta on the constitutionality of the partial-birth abortion ban statute and at a University of Louisville Law School conference on the First Amendment. Araiza also spoke on commercial speech and the First Amendment at the Socio-Legal Studies Association Conference in Glasgow, Scotland.

PROFESSOR JEFFERY C. ATIK (Sayre Macneil Fellow) continues to serve as a United States panelist on

the NAFTA softwood lumber antidumping review panel. On August 30, the panel heard oral arguments in Washington, D.C. concerning the panel's jurisdiction to order the U.S. Department of Commerce to refund collected duties. Atik was recently appointed a U.S. representative to the Foreign Investment Law Committee of the International Law Association. On March 31, he spoke on judicial review of NAFTA Chapter 11 decisions at the Institute for the Transnational Arbitration/American Society of International Law (ASIL) joint special program on "The Two Faces of Court-Arbitrator Interaction under Investment Treaties." In February 2005, Atik will speak at the ASIL International Economic Law Group annual conference on *Afghanistan's Nascent Trade Policies*. He visited Kabul in May 2004 to observe Afghanistan's preparations for membership in the World Trade Organization. His recent publications include *Repenser NAFTA Chapter 11 – A Catalogue of Legitimacy Critiques*, 3 *Asper Rev. Int'l Bus. & Trade L.* 215 (2003); "The Relationship Between Environmental Rights and Environmental Justice: A Commentary," in *Human Rights Dialogue* (2004). Atik will be a visiting professor at Lund University in Sweden in Spring 2005.

ASSOCIATE CLINICAL PROFESSOR SUSAN SMITH BAKHSHIAN '91 presented at the Rocky Mountain Regional Legal Writing Conference in Las Vegas, Nevada on March 6, 2004. Bakhshian's presentation included techniques for using email to teach professionalism. As faculty advisor to the Evening Women's Law Association, she also hosted a fundraiser at her home to benefit the Asian Pacific Women's Center. In July 2004, she made a presentation with Professor Jean Boylan '86 at the Legal Writing Institute Conference in Seattle, Wash., on whether current methods of teaching legal writing meet the needs of non-traditional law students.

CLINICAL PROFESSOR BARBARA BLANCO (Faculty Externship Director) and Clinical Professor Sande Buhai '82 published their article entitled "Externship Field Supervision: Effective Techniques for Training Supervisors and Students" in the *Clinical L. Rev.* vol. 10, no. 2, 2004.



Barbara Blanco



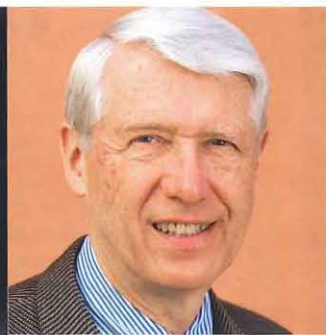
Jean Boylan



Sande Buhai



Brietta Clark



Roger Findley

ASSOCIATE CLINICAL PROFESSOR JEAN BOYLAN '86 was the keynote speaker for The Bureau of Children and Family Services Transitional Career Seminar. The Bureau assists foster children in the transition to getting housing and employment after foster care. She also continued to serve on the board of directors for HeArt, a non-profit organization, providing arts and music programs for underprivileged teens. In addition, Boylan published an article entitled "The Total Cost Method: A Creative Approach to Calculating Damages in Complex Construction Cases" in the 25th Anniversary Edition of the *Whittier L. Rev.* Issue 4 (2004). In July 2004, she made a presentation entitled "Effective Writing Feedback to Assist Non Traditional Students in Law School Success" at the National Legal Writing Institute.

CLINICAL PROFESSOR SANDE BUHAI '82 published "In the Meantime: State Protection of Disability Civil Rights" in the *Loy. L.A. L. Rev.* in Spring 2004 and co-published, with Professor Barbara Blanco, an article entitled, "Externship Field Supervision: Effective Techniques for Training Supervisors and Students," in the *Clinical L. Rev.* vol. 10, no. 2, 2004. She continues to serve on the Board of Directors of UnCommon Good and the Western Law Center for Disability Rights.

PROFESSOR BRIETTA R. CLARK presented a paper entitled "The Role of Title VII & the PDA in the Continuing Battle for Gender Equality in Reproductive Health: Exclusions of Prescription Contraception and Infertility Treatments from Employment-Based Health Plans" in the Loyola Workshop Series and the Northeastern People of Color Legal Scholarship Conference. Clark also participated in a panel at the ASLME's Annual Health Law Teacher's Conference on the application of civil rights laws to the exclusion of infertility treatments in health plans. She continues to serve as a member of the Institutional Review Board and Biomedical Ethics Committee at California Hospital Medical Center, a member of the Board of Directors of Mental Health Advocacy Services, and a member of the Executive Committee for the Health Law Section of the Los Angeles County Bar.

PROFESSOR JAN C. COSTELLO published her article entitled "The Trouble Is They're Growing, the Trouble Is They're Grown: Therapeutic Jurisprudence and Adolescents' Participation in Mental Health Care Decisions," which appeared in the Symposium on The Law of Mental Illness, 29 *Ohio N.U. L. Rev.* 607 (2003). In March 2004, Costello was a guest presenter on the topic of "Same Sex Marriage: Contract and Status in Civil Law" at Loyola Law School's Seminar on Law and Catholic Tradition. A month later, she was a discussant on the topic of "Capacity to Appoint a Proxy for Health Care Decisions" at the Conference on Capacity to Consent to Treatment and/or Research: Legal and Psychiatric Dimensions held at the University of Southern California Law Center. Her comments on legal and ethical issues raised by third party consent for the use of children as research subjects will be published in law journal form together with the other presentations from the Conference (forthcoming 2005). A condensed version of Professor Costello's article, "Wayward and Noncompliant People With Mental Disabilities: What Advocates of Involuntary Outpatient Commitment Can Learn from the Juvenile Court Experiences with Status Offense Jurisdiction," 9 *Psychol., Pub. Pol'y & L.* 233 (2003), will appear in *Juvenile Correctional Mental Health Report* (forthcoming 2004).

ASSOCIATE CLINICAL PROFESSOR MARY B. CULBERT (Director of The Center For Conflict Resolution at Loyola Law School) participated on several panels in the past year. As part of one panel, organized by the California State Bar Alternative Dispute Resolution (ADR) Committee, Culbert presented on the current state of mediation confidentiality at The California State Bar Convention in September, along with John Toker, mediation program administrator, Court of Appeal (First Appellate District), Jeff Kichaven, Esq., and George Calkins, Esq. In March 2004, Culbert participated on a Loyola Law School panel regarding "Careers in ADR." Culbert also conducted two 30-hour mediation trainings for the community-at-large in June 2003 and February 2004, and will conduct two more community trainings in November 2004 and February 2005. She participated in a statewide

think-tank on community mediation organized by the California Dispute Resolution Institute at the University of San Francisco Law School in March 2004. Culbert continues to be a member of several mediation panels, including the Los Angeles Superior and Appellate Courts. She also continues as an advisory member to the State Bar ADR Committee. In September 2004, Culbert will present on two panels at the National Association for Conflict Resolution Conference in Sacramento. Those presentations will address whether California should adopt Uniform Mediation Act exceptions to mediation confidentiality, and the current state of community mediation in Southern California.

PROFESSOR F. JAY DOUGHERTY published "A Vietnam Diary—Authorship, Collaboration, Personal Rights, Moral Rights, Conflicts Among Authors" in *Artists, Technology & the Ownership of Creative Content*. (USC Annenberg Norman Lear Center, 2003). Dougherty spoke at the Los Angeles Intellectual Property Law Association's Washington & the West Seminar on "Highlights of the Year on Copyright" and at the Orange County Patent Law Association on "Downloading Music Off the Internet—What's All the Fuss About?" He also spoke at FindLaw's IP Strategies 2003 conference on the topic of "Challenges in Protecting Your Copyrighted Content in a Digital Environment" and was moderator and speaker on "The Business of Entertainment" panel at a program put on by the Yale Club of Southern California in conjunction with Loyola Law School at Creative Artists Agency. Dougherty also spoke on recent developments at the Annual Mid-winter meeting of the U.S. Copyright Society and the L.A. Copyright Society and helped organize a symposium as part of the CalTech/Loyola Law School 5th Annual Law & Technology at the Cutting Edge program, as well as moderating two panel discussions on digital rights management technology and business models for protecting content in the digital environment.

PROFESSOR ROGER FINDLEY (Fritz B. Burns Chair of Real Property) published *Environmental Law in a Nutshell* (6th ed. 2004), with Daniel Farber, Sho Sato Professor of Law at U.C. Berkeley.

Faculty

[Updates]

Findley and Farber published the 1st edition of their popular treatise in 1983, when they were faculty colleagues at the University of Illinois. Professor Findley also collaborated with Adjunct Professor Emily Yozell in offering a summer course on International Environmental Law at the University of Costa Rica in July 2004. The course was attended by students from Loyola and numerous other U.S. law schools.

PROFESSOR EDITH FRIEDLER (Director of International Programs) is in charge of Loyola Law School's three Summer Abroad Programs (Beijing, Bologna and Costa Rica). Friedler is also in charge of establishing a new LL.M. program in "American Law and International Legal Practice" to be taught in Bologna, Italy. The LL.M. is aimed at providing foreign graduates an accessible program to learn American legal concepts. The program is also open to graduates of ABA accredited law schools interested in an international legal practice. The petition for ABA acquiescence has been filed and the LL.M. is scheduled to commence in the fall of 2005. Professors Friedler and Jeffery Atik have also established a relationship with the Universidad Iberoamerica in Tijuana, and students and faculty from both institutions have attended lectures in Los Angeles and Tijuana. Friedler was a member of the Nominating Committee of the American Society of Comparative Law. This summer Friedler directed the Loyola/Brooklyn Summer Program in Bologna and also taught introduction to European legal systems.

ASSOCIATE DEAN VICTOR J. GOLD (William M. Rains Fellow) co-authored a new evidence law casebook with Professor David Leonard. *Evidence: A Structured Approach* was published in March by Aspen. Gold also published the

annual updates to his four books in the *Federal Practice and Procedure* series. Associate Dean Gold has been appointed to the Advisory Board of the Legal Education section of the Social Science Research Network.

PROFESSOR RICHARD L. HASEN (William M. Rains Fellow) published "The Surprisingly Easy Case for Disclosure of Contributions and Expenditures Funding Sham Issue Advocacy," 3 *Election L.J.* 251 (2004); "After the Storm: The Uses, Normative Implications, and Unintended Consequences Of Voting Reform Research in Post-Bush v. Gore Equal Protection Challenges," in *Rethinking the Vote* 185-199 (Oxford University Press, Ann Crigler, Marion Just, and Edward McCaffery eds., 2004); and *Election Law-Cases and Materials 2004 Update* (supplement co-authored with Daniel Hays Lowenstein). Hasen also provided op-eds for the *Los Angeles Times*, *San Diego Union*, *Slate*, *National Public Radio's Day-to-Day*, *Roll Call*, *Daily Journal*, and *Legal Times*. He spoke at the University of Pennsylvania Law School, Indiana University Law School, and the University of Southern California Western Knight Center. He also participated in a symposium at Notre Dame Law School on his book, *The Supreme Court and Election Law* (NYU Press 2003).

PROFESSOR PAUL T. HAYDEN (Jacob Becker Fellow) published his new casebook, *Ethical Lawyering: Legal and Professional Responsibilities in the Practice of Law* (Thomson/West 2003).

VISITING ASSOCIATE PROFESSOR EVE HILL (Executive Director, Western Law Center for Disability Rights) was invited to be practitioner in residence at the University of Iowa College of Law for a week during the Spring semester of 2004. Professor Hill's treatise, *Disability Civil Rights Law and Policy*, co-authored with Professor Peter Blanck of the University of Iowa, Charles Siegal of Munger Tolles & Olson, and Professor Michael Waterstone of the University of Mississippi, was published by Thomson-West in January 2004 and her casebook on the same topic will be published in January 2005.

PROFESSOR ALLAN IDES '79 (William M. Rains Fellow) and Professor Christopher N. May published *Constitutional Law: National Power and Federalism* (3d ed.) and *Constitutional Law:*

Individual Rights (3d ed.), both part of the Examples and Explanations series put out by Aspen Publishers. His article, "The Partial Birth Abortion Ban Act of 2003 and the Commerce Clause," has been accepted for publication by the *Constitutional Commentary* and his article entitled "Habeas Standards of Review Under 28 U.S.C. § 2254(d)(1): A Commentary on Statutory Text and Supreme Court Precedent" was published by the *Wash. & Lee L. Rev.*

PROFESSOR LISA IKEMOTO recently published "Racial Disparities in Health Care and Cultural Competency," 48 *St. Louis U. L.J.* 75 (2003). She also completed her first year on the Board of Trustees for the Law School Admissions Council. In late January, 2004, Professor Ikemoto presented "Stem Cell Research Regulation and Reproductive Freedom Issues" at the Family Planning Advocates Annual Conference in Albany, New York. She spoke on a panel about the "Elimination of Bias & Increasing Diversity" at the April California State Bar Conference. In June, she participated at the Roundtable on Racial Disparities in Health Care at the Harvard Civil Rights Project, in Cambridge, Mass. She also addressed the Merger Watch National Advisory Board on Reproductive Freedom, Race, Gender, and Stem Cell Regulation. She was a presenter on the Jay Healey Memorial Plenary at the American Society of Law, Medicine and Ethics Health Law Teachers Conference at Seton Hall Law School. And she presented at the Association of American Law Schools Conference on Teaching Property Law for the 21st Century in Portland, Oregon. Most recently, Professor Ikemoto's abstract has been accepted for presentation this fall at the annual American Public Health Association meeting in Atlanta, Georgia.

PROFESSOR KURT T. LASH (W. Joseph Ford Fellow) will have two articles published by the *Tex. L. Rev.*: "The Lost History of the Ninth Amendment: The Lost Original Meaning" and "History of the Ninth Amendment: The Lost Jurisprudence."

PROFESSOR DAVID P. LEONARD (William M. Rains Fellow) published four books in the past year: *Evidence: A Structured Approach* (with Victor Gold); *Questions and Answers: Evidence; Questions and Answers: Torts* (with Anita Bernstein); and *Evidence Law: A Student's Guide*



Richard Hasen



Paul Hayden



Lisa Ikemoto



David Leonard



Laurie Levenson

to the Law of Evidence as Applied in American Trials (2d ed. 2004) (with Park & Goldberg). He also published the 2004 Supplement to *The New Wigmore: A Treatise on Evidence: Selected Rules of Limited Admissibility*. Leonard serves as vice president of the Education Foundation of Santa Monica - Malibu.

PROFESSOR LAURIE L. LEVENSON (William M. Rains Fellow and Director of the Center for Ethical Advocacy at Loyola Law School) is chairing the federal court's Magistrate Selection Panel this year. Levenson is also lecturing for the Federal Judicial Center, the Northwestern Bankruptcy Center, and was a featured guest on the "Great Minds Series," featured by the California Courts. Her recent publications include: *California Criminal Law* with Adjunct Professor Alex Ricardulli; *Federal Criminal Rules Handbook, 2004 edition*; and "Problems with Fingerprint Evidence," *L.A. Daily J.* (Feb. 2003). In addition to teaching at Loyola, Levenson is teaching "Anti-terrorism and the Law" at UCLA Law School this Spring. She is also a member of the newly formed Los Angeles Inn of Courts for criminal practitioners. Her recent speaking engagements include: keynote speaker at the Pasadena Bar Association, at the U.S.A.F Base in Boise Law Days, as well as at the California Judicial Education Center's Program on Media and the Judges; master of ceremonies at the Los Angeles County Bar Association Dinner; guest speaker for the U.C. Irvine Graduate Programs; presenter to the Inn of Courts on Media and the Courtroom, Northwest Conference of Bankruptcy Judges in Portland, Federal Judicial Center Workshop for U.S. District Justices, Jewish Federation Program on "Prosecution of King David," A.B.A. White Collar Crime Program, and the Women Lawyers Association of Los Angeles.

PROFESSOR CHRISTOPHER N. MAY (James P. Bradley Chair of Constitutional Law) and Professor Allan Ides '79 published *Constitutional Law: National Power and Federalism* (3d ed.) and *Constitutional Law: Individual Rights* (3d ed.), both part of the Examples and Explanations series put out by Aspen Publishers.

PROFESSOR THERESE MAYNARD (Leo J. O'Brien Fellow) is currently finishing her *Mergers & Acquisitions* casebook, which is to be published

by Aspen Publishers in December 2004. Last year, Maynard was appointed to serve as academic liaison to the Executive Committee of the Business Law Section of the Los Angeles County Bar Association. Maynard continues to lecture on corporate governance reforms in the wake of the Sarbanes-Oxley Act of 2002. Her speaking engagements include the keynote address, "The Revolution in Corporate Governance," at the 2004 Missouri Banking Symposium hosted by the University of Missouri and participation in a Directors Roundtable program as part of a panel addressing the Key Issues Facing Boards of Directors. During summer 2004, Maynard continued to travel around the country as a national lecturer for BARBRI Bar Review, Inc.

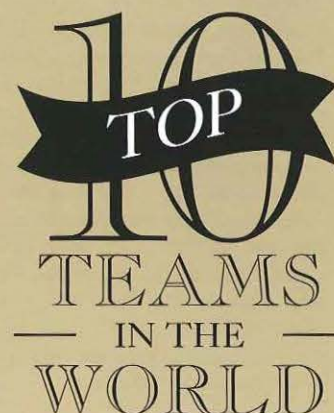
PROFESSOR YXTA MAYA MURRAY will have her article "Tragicomedy" published by the *How. L. J.*

ASSOCIATE PROFESSOR ALEXANDRA NATAPOFF finished her first year of teaching. Her article "Snitching: The Institutional and Communal Consequences" will be published by the *Cincinnati L. Rev.* in December 2004. The article was selected by the Stanford/Yale Junior Faculty Forum and was presented at Yale in June. Professor Natapoff also addressed the National Association of Criminal Defense Lawyers on "Challenging Forensic Experts."

PROFESSOR JOHN T. NOCKLEBY will have his manuscript for his online course, "CyberPrivacy" published by The Berkman Center at Harvard Law School. The text for the course may be found at <http://h2o.law.harvard.edu/ViewProject.do?projectId=158> [or Google "Nocklebycyberprivacy"]. During Spring 2004, Nockleby lectured on privacy at Northeastern School of Law in Boston and on tort law for Law Preview. Earlier this year, Nockleby was appointed faculty coordinator for a series of annual conferences on controversial issues in tort law. The first Symposium, entitled "Access to Justice: Can Business Coexist with the Civil Jury System?" to be held at Loyola Law School on October 1 & 2, 2004, has drawn commitments from leading scholars, journalists, attorneys and judges from around the country. Nockleby is currently writing a book on torts with Duncan Kennedy of Harvard Law School, and continuing his research on technology and privacy.

CONGRATULATIONS 2004

Loyola Law School's
INTERNATIONAL
COMMERCIAL
ARBITRATION
MOOT TEAM
named among the



at the
Willem C. Vis
International
Commercial Arbitration
Moot Competition
in Vienna, Austria

135 universities from 42 countries
participated in the competition,
which was held
in April 2004 at the
University of Vienna School of Law

Congratulations
to team members

HEIDI BROOKS '05

AARON KAHN '05

YASMIN MANG '05

LAN VU '04



Chris May

Alexandra Natapoff

Katie Pratt

The Willem C. Vis
International Commercial Arbitration Moot Competition
is named for the late Willem C. Vis,
the general director of the
United Nations Commission on
International Trade Law.

Faculty

[Updates]

PROFESSOR SAMUEL H. PILLSBURY (J. Howard Ziemann Fellow) recently published *Mission to California, A Planet Wampetter Adventure* (2003) and a review of several books by and about sexual assault victims, "A Different Kind of Courage, A Different Kind of Peace," 1 *Ob. St. J. Crim. L.* 357 (2003). Pillsbury was a panelist at the Harvard Women's Law Journal 2004 Conference on "Emotion and the Law" on March 6, 2004 in Cambridge, Mass. His talk, "Taking the (Male) Passion Out of Heat of Passion," addressed reform of the provocation doctrine in homicide. Pillsbury also gave the keynote address at the fifth annual conference on Evil and Human Wickedness, an interdisciplinary proceeding held in Prague, Czech Republic. His talk, "Speaking the Language of Evil," concerned definitions of evil in criminal law and cruelty in criminal punishment. He chaired a faculty committee charged with selecting a director for a newly established in-house clinic in which selected students will represent youth charged with delinquency offenses in Los Angeles juvenile court.

PROFESSOR KATHERINE T. PRATT published her latest article, "Inconceivable? Deducting the Costs of Fertility Treatment," 89 *Cornell L. Rev.* 101 (2004). In addition, her article entitled "Corporate Cancellation of Indebtedness Income and the Debt Equity Distinction," has been accepted for publication by the *Virginia Tax Review* at the University of Virginia. Pratt was on sabbatical during the Spring 2004 term and is currently working on the fourth edition of *Federal Income Tax: Examples & Explanations* (Aspen).

PROFESSOR FLORRIE YOUNG ROBERTS wrote a chapter on "Constructive Trusts, Resulting Trusts, and Equitable Liens" for the book entitled *California Real Property Remedies and Damages*, published by Continuing Education of the Bar. Roberts was also a speaker at the Annual Real Property Retreat of the Real Property Law Section of the State Bar of California.

PROFESSOR DAN S. SCHECHTER served as a panelist for the American Bankruptcy Institute in March 2004, discussing "New Developments in Insolvency Law." Schechter also spoke to the Los Angeles County Bar Association Commercial and Bankruptcy Section in April 2004 on "Loan Workout Documentation," and addressed the Beverly Hills Bar Association in May 2004 on "Current Developments in Insolvency Law." Schechter continues to serve as an active member of the California State Bar Insolvency Law Committee, where he is responsible for reviewing and drafting legislation. He also continues as a quarterly columnist for the Commercial Law and Bankruptcy Section of the Los Angeles County Bar Association. He writes the "Commercial Finance Newsletter," a weekly column published by Westlaw [database COMFINNL].

PROFESSOR MARCY STRAUSS will have an article on the Supreme Court case of *Nebraska Press v. Stuart* and an article on the First Amendment and the Secondary Effects Doctrine for the forthcoming *American Encyclopedia of Constitutional Law*. Strauss participated in a debate at UCLA on Sexual Harassment and the First Amendment and spoke at the University of Judaism on the constitutional issues involved in the same sex marriage debate.

PROFESSOR PETER M. TIERSMA (Joseph Scott Fellow) will publish in early 2005 a new book, *Speaking of Crime: The Language of Criminal Justice* (co-authored with Lawrence Solan), University of Chicago Press. Other recent and pending publications include "Cops and Robbers: Selective Literalism in American Criminal Law," forthcoming in *Law & Soc'y Rev.* (with Lawrence Solan); "Did Clinton Lie? Defining Sexual Relations," forthcoming in *Chi.-Kent L. Rev.* "Hearing Voices: Speaker Identification in American Courts," 54 *Hastings L.J.* 373 (2003) (with Lawrence Solan); and *From Speech to Writing: Textualization and its Consequences*, in *Language and the Law: Proceedings of a Conference* (Marlyn Robinson 2003). He made a presentation on language and the criminal law to the Fall Conference of Habeas Corpus Resource Center in San Francisco. Tiersma also presented at Fryske Akademy in the Netherlands on "Language Rights and Language Disputes in

the United States" and at the University of Granada in Spain on "Legal Interpretation in a Common Law System," to the Department of Legal Philosophy and "Some Language Issues in American Criminal Law" to the Institute of Criminology. He continues his work as a member of both the Criminal and Civil California Jury Instruction Committees, and is also advising the Vermont and New York courts on the language of jury instructions. Tiersma was selected "Professor of the Year" by the Loyola Law School Student Bar Association (Day Division 2004).

PROFESSOR DAVID C. TUNICK (J. Howard Ziemann Fellow) recently published an article entitled "Passive Internet Websites and Personal Jurisdiction," 28 *Okla. City U. L. Rev.* 739 (2003).

PROFESSOR FREDERICK TUNG (Dean's Fellow) will publish "Lost in Translation: From U.S. Corporate Charter Competition to Issuer Choice in International Securities Regulation" in the *Ga. L. Rev.*

PROFESSOR GARY C. WILLIAMS served as the faculty editor of the Social Justice Symposium of the *Loy. L.A. L. Rev.* The symposium produced eight articles for the *Law Review*, authored by Erwin Chemerinsky, John Calmore, Thomas Griffith, Linda Beres, Sande Buhai, Robert Scholla S.J., James Gilliam, and Mary Beth Lipp. A live version of the symposium was held on February 27, 2004 featuring each author in the Robinson Courtroom. Williams was part of a panel discussion sponsored by the Beverly Hills Bar Association entitled "...And Justice for All." He also presented "Attorney-Client Privilege: Under Siege in the War on Terrorism?" as a panelist at the California State Bar 7th Annual Statewide Ethics Symposium. This year, he began his third and final term as president of the Board of Directors of the ACLU of Southern California.

PROFESSOR GEORGENE M. VAIRO (William M. Rains Fellow) was selected "Professor of the Year" by the Loyola Law School Student Bar Association (Evening Division 2004). Vairo spoke on the topic of "Problem or Solution: Using Bankruptcy to Resolve Mass Tort Litigation" at the National Conference of Bankruptcy Judge's annual program in San Diego. She also lectured at the ALI-ABA Advanced Federal Practice program in Scottsdale, Arizona on the subjects of Rule 11 and Other Sanctions, Summary Judgment, and Forum Selection. The American Bar Association published the completely revised third edition of her 1,000-page treatise, *Rule 11 Sanctions: Case Law Perspectives and Preventive Measures*. She also served as faculty advisor to the *Loy. L.A. L. Rev.* "Forum Selection Developments" issue, and put together the Happy (?) Birthday Rule 11 Symposium for the *Law Review*, and wrote the forewords for both issues. She continues as a bi-monthly columnist on forum selection issues for the *Nat'l L.J.* ❖



Florrie Young Roberts



Marcy Strauss



Fred Tung

NEW ASSOCIATES JOIN LAW FACULTY

Beginning this academic year, two new associate professors join the full-time faculty at Loyola Law School. Professor Robin B. Kar teaches contracts and jurisprudence and Professor Lauren E. Willis teaches civil procedure and consumer law.

ROBIN B. KAR obtained his B.A. *magna cum laude* from Harvard University, his J.D. from Yale Law School and a Ph.D., from the University of Michigan, Department of Philosophy. While at Yale, Kar served as an editor of the *Yale Law Journal* and the *Yale Journal of International Law*, and also was a Thurman Arnold Prize finalist in moot court. Following law school, he began a Ph.D. program in philosophy at the University of Michigan, focusing on issues in ethics, philosophy of law, social and political philosophy and game theory. Kar took two leaves of absence from this program to clerk, first for the Honorable Sonia Sotomayor on the United States Court of Appeals for the Second Circuit, and later for the Honorable John G. Koeltl on the United States District Court for the Southern District of New York. He then completed his dissertation work as a Charlotte Newcombe Fellow. Kar has broad research interests in jurisprudence and moral and political philosophy, and also worked briefly at Davis Polk & Wardwell, Paul Weiss Rifkind Wharton and Garrison, and Debevoise and Plimpton in New York.



LAUREN E. WILLIS earned her B.A., with highest honors, from Wesleyan University and a J.D. with Distinction, Order of the Coif, from Stanford Law School. While at Stanford, Willis served as a senior staff member on the *Stanford Law Review*. Willis clerked for the Honorable Francis D. Murnaghan, Jr. of the United States Court of Appeals for the Fourth Circuit and for the United States Department of Justice, Office of the Solicitor. Following law school, she practiced as an associate with Brown, Goldstein & Levy, LLP in Baltimore, Maryland, where she handled trial and appellate work in federal and state courts. She then joined the U.S. Department of Justice in Washington, D.C. as a trial attorney in its Civil Rights Division, Housing and Civil Enforcement Section, where she investigated and litigated housing, lending and public accommodations discrimination matters. Until recently, Willis was a lecturer and fellow at Stanford Law School in Palo Alto, where she taught first year Civil Procedure. Her current work in progress is "Decisionmaking and the Limits of Disclosure: The Problem of Predatory Lending."



All students at Loyola Law School are members of the Student Bar Association (SBA), which consists of two divisions: day and evening. Every spring, as of recent years, members of each division vote for their favorite law professor. In May, the day division presented the "Excellence in Teaching Award" for 2004 to Professor Peter M. Tiersma, Joseph Scott Fellow,



EXCELLENCE IN TEACHING



and the evening division presented the award to Professor Georgene M. Vairo, William M. Rains Fellow. The SBA first initiated the award in 2002, when Professor Bill Hobbs was honored posthumously. In 2003, Professors Gary C. Williams and Laurie L. Levenson received the honor, from the day and evening divisions respectively.

Faculty

[Adjuncts]



THE FRAUD BUSTER

White Collar Crime Professor / **Sandra R. Klein '92**

Sandra Klein has spent the past seven years on the front lines prosecuting complex white-collar crimes with an emphasis on bankruptcy fraud. As a special assistant United States attorney, and now as the regional bankruptcy fraud criminal coordinator with the United States Trustee's Program, she has trained prosecutors and federal, state, and local law enforcement agents to investigate and prosecute bankruptcy-related crimes. She also created the I.D. Theft Program, which is used by law enforcement agencies, banks and schools across the country.

Klein teaches a course at Loyola on white-collar crime and speaks across the country about identity theft and bankruptcy fraud.

"You can't open a newspaper without seeing a high profile fraud case," says Klein. "Whether it's Enron, WorldCom, or Martha Stewart, fraud is everywhere." Klein jokes that her most useful "textbooks" are the *Los Angeles Times*, the *Los Angeles Daily Journal*, and the *Wall Street*

Journal. Fraud has become such a huge problem that it makes up an entirely new unit at the United States Trustee Program called the Criminal Enforcement Unit.

Law was a second career for Klein, a Boston native who spent her early career as a corporate computer and telephone systems trainer. During the mid-to-late 1980's, she managed the district-wide computer training program for telephone conglomerate NYNEX, and she was a telecommunications trainer for AT&T.

"I was looking for a challenge and intended to just come out to Los Angeles for the three years of law school and return to the East Coast. That was 15 years ago," Klein says.

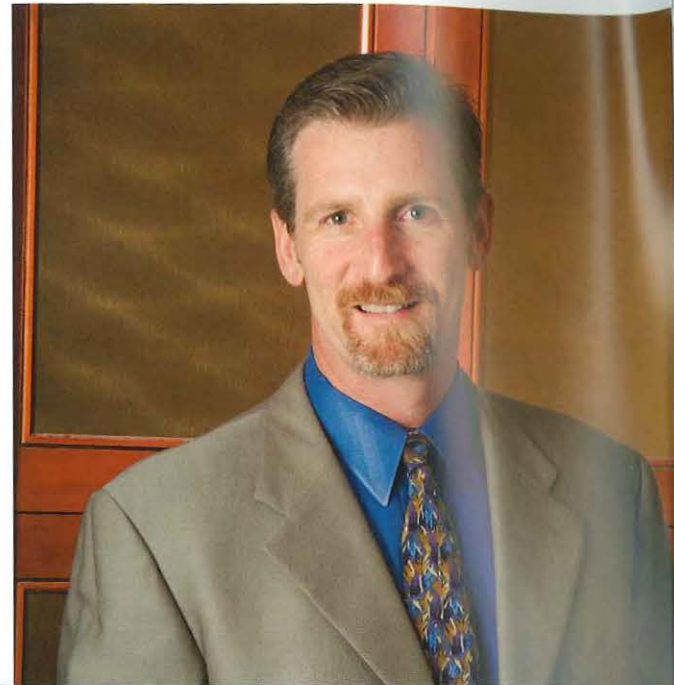
After graduation, she clerked for the Honorable Lourdes G. Baird of the Central District of California as well as for the Honorable Arthur L. Alarcon of the Ninth Circuit Court of Appeals. She then landed a litigation associate position at O'Melveny & Myers LLP, and in 1997 went to the U.S. Attorney's Office as a special assistant.

Klein now travels throughout California, Arizona, Hawaii, and Guam working with U.S. Attorney's Offices, U.S. Trustee's Offices and local law enforcements agencies to create regional working groups and to help investigate and prosecute bankruptcy-related crimes.

Klein's war on fraud is a personal one. She was inspired by her grandmother. "My grandmother grew up in an era where people rarely locked their doors and always answered their mail and telephone," explains Klein. "She used to get all these offers in the mail saying she had won a sweepstakes prize or free service, which we all know is never really free. She would get all excited because she loved getting mail and she would love when people would call her. I would explain that it was all a fraud and she would get very disheartened. She didn't want to believe that someone would lie to her or steal from her." ❖

John Horn credits his grandfather for his interest in the law. "He was the man I respected most in my life and he was a great lawyer. I wanted to follow in his footsteps," Horn says. Unfortunately, Horn's grandfather unexpectedly passed away just months before John's college graduation and entry into law school. "That really took the wind out of my sails," he says.

A decade later, while having lunch with his grandmother, the law school route resurfaced. "I knew I wasn't going to grind it out on the partner track in some big firm," Horn explains. "But I also knew a law degree would enhance any business plan I could come up with." So he took the LSAT and enrolled at Loyola.



A PRACTICAL APPROACH

Alternate Dispute Resolution Professor / **John R. Horn '96**

A freak accident 10 years ago led to a career change when Horn and his wife were hit by a drunk driver as they crossed a street. "Fortunately neither of us was seriously hurt, although I did do a full Jim Rockford over the hood and landed in the street," he laughs. His back injury prevented him from returning to his sales job, so Horn went to Loyola's career services office for help. They pointed him to the American Arbitration Association, the nation's oldest dispute-resolution firm. There, Horn ran the Large Complex Case Program, wrote the company's national marketing plan, and was named western regional marketing manager.

When his accident case settled, he took the money and started his own dispute resolution company, ADR International, which was eventually absorbed by a larger company. As a senior executive on the business end of ADR, he has seen thousands of cases from fight-to-the-death partnership dissolutions to Hollywood divorces to ten-figure business settlements. He tries to impart the realities of litigation and ADR to his students in the context of real cases and exercises.

Horn brings his expertise in all forms of dispute resolution to the course he teaches at Loyola. "I don't theorize about great ways to mediate cases," Horn declares. "I try to make the course as practical as possible. I'm in the business and view these processes from a business perspective. I know how to choose judges and mediators and what it takes to be a successful lawyer for your clients in ADR. I also have to know the rules, laws and the games that lawyers play to manipulate those less savvy. Although I teach my students the procedural basics, I try to pass on the type of information that they can only get from experience. My greatest satisfaction is when a former student tells me that what they learned in class had given them an edge." ❖

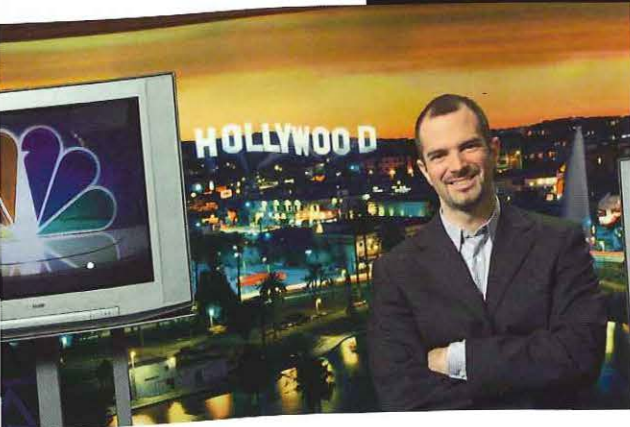
Faculty

[Adjuncts]

It's not unusual to see former cast members of *The Apprentice* or *Survivor* strolling around the Loyola campus. And while it is funny to think that someone like Omarosa may soon be terrorizing judges, show cast-offs are actually guest speakers in Lee Straus' media law class, telling students about their experiences in television; from entering into lengthy contestant release forms to the lucrative afterlife of a show.

Unlike any other game, there are rarely any losers in the high-stakes genre of reality television, TV's hottest commodity. From his perch at NBC Entertainment in Burbank, Straus is keeping a watchful eye on all the infighting and bug-eating. As vice president, business affairs, he is the point-person on the business side of reality TV for the NBC Network and the company's cable networks. His responsibilities include negotiating format/rights acquisitions, talent and producer agreements, overall term deals and license fee negotiations.

THE MAKING OF REALITY TV



*Legal, Business and Financial Aspects of Reality
Based Television Professor /* **N. Lee Straus '96**

The Mississippi native started his show business career as a film student at USC's School of Cinema and Television. That led to a position with The Walt Disney Company, where he was an assistant to a creative executive on the feature film side. "It was a great way of learning how features get made, starting from the script development stage through the actual production of the feature and the time it is finally released in theaters," says Straus.

Always interested in the legal issues, Straus decided to attend law school. After passing the Bar, he segued within Disney to Buena Vista Television and learned the syndication side of the television business. That's when one of the classes he teaches, "Television Programming and Production Finance," became a reality.

"I realized I'd gone to four years of law school and literally about one and half classes that I'd taken over that time had any relevance to what I was actually doing in the real world," Straus says. I thought, there's got to be a class that deals with the practical issues of producing television.

He decided to pitch the class to Loyola, but the idea was put on the back burner until he found himself sitting next to then Associate Dean of Academic Affairs Laurie Levenson during a stint of jury duty. It was there that Straus' deal-making skills came in handy. He outlined the 14-week course for his captive audience and later sent her a complete proposal. Levenson agreed that the course would complement one Loyola already offered in motion picture law and Straus' teaching career was born.

He brought in guest speakers and taught practical knowledge on the business side of the television industry. Midway through the semester he switched to the legal aspects and taught topics that lawyers may run across during the production of a television show.

Last year Straus added a "spin-off" class geared towards the business, legal, and financial aspects of reality-based television. While at Buena Vista he had worked on television's most popular game show, *Who Wants to Be a Millionaire?* His latest challenge was being in the trenches making a deal with the world's foremost deal maker, Donald Trump, for *The Apprentice*. ♦



TRAILBLAZERS / Mary Bennett, John Denove and Wilke Cheong
Continued from page 19

of a horse, meandering down a quiet meadow trail. There's nothing else like it."

Denove believes being around horses has made him a better trial lawyer.

"Horses have their own personality," he says. "On any given day, based upon the weather, the feed, or how they woke up in their stall, they can be friendly, reasonable, cranky, or downright mean-spirited. You learn to adjust to their mood because you can't win a fight against a 1,200-pound horse. The same holds true with a judge."

Denove, Bennett, and Cheong have been friends since their first year of law school. Not only was a lifetime friendship sparked in the halls of Loyola, but a successful business partnership was forged. Pooling their respective expertise, the power trio opened its own firm not long after graduation. Their firm specializes in major injury and business tort litigation.

When the partners aren't riding into the sunset they can be found skiing or involved in some other recreational activity.

"We enjoy each other's company," says Bennett, who has been married to Denove for more than 24 years. "You spend most of your waking hours at your business so it's nice when the people with whom you work are people that you actually care about."

A few years ago they brought in John Rowell as a partner. Says Cheong, "John received his undergraduate and juris doctorate degrees from USC, but he rides horses, so we figured he couldn't be all that bad!" ❖



CLASSICAL ESCAPE / James "Duff" Murphy
Continued from page 19

"I learned as much from the audience as they did from me," he recalls.

Later that same year, Murphy also undertook another learning experience by enrolling at Loyola Law School. While earning a living as a real estate appraiser during the week for the couple of years since leaving Hastings, Murphy discovered an interest in the real estate industry and determined to pursue a career in real estate law.

Murphy continued to host *The Opera Show* on KPCC while a student at Loyola.

The complete break from school for a few hours every Saturday morning was refreshing and the parallel learning experiences informed each other.

Another benefit? "My hosting *The Opera Show* was also a way to connect with several of my professors who had a great appreciation of opera."

Upon graduating Loyola, Murphy joined Oliver, Vose, Sandifer, Murphy & Lee and has enjoyed a fulfilling career in eminent domain law, representing both government agencies, such as Los Angeles Unified School District, and private property owners.

"Loyola Law School prepared me extremely well for my career as a lawyer," says Murphy, "and the issues in my field are related to real estate appraisal, which is what I wanted to pursue."

Murphy has also been a continuing voice on Los Angeles radio since graduation. In 1994, Murphy had the opportunity to take his show to the larger stage of KUSC when that station picked up the Metropolitan Opera broadcasts for the L.A. market.

"Loyola is the backbone of the Los Angeles legal community,"

"It was like moving from off-Broadway to Broadway," says Murphy. His two greatest thrills: Becoming a colleague at KUSC of the top, national classical music radio personality Jim Svejda, and becoming friends with famed mezzo soprano Marilyn Horne.

"I still can't believe I'm friends with these two renowned people, who are also terrific human beings," says Murphy. And now, he helps further educate a loyal audience with his breadth of opera knowledge.

Murphy also points out that both educations are still paying off.

"Loyola is the backbone of the Los Angeles legal community," he says. Not only do several other Loyola alumni work at Oliver, Vose, Sandifer, Murphy & Lee, but he has made the alumni connection with prospective clients as well. Recently, Murphy found himself discussing which of Loyola's terrific professors he and a potential client had both studied with. And *The Opera Show*? "I've had judges ask me, are you the Duff Murphy?"

Murphy plans on remaining the Duff Murphy for a long time. While his lawyer wife Janice might prefer him to do chores around the house on a Saturday morning, the show does not actually interfere with his devotion to family.

"These days," Murphy says, "my greatest joys of a Saturday come after *The Opera Show* is over, watching my two young daughters play soccer." ❖



THE MUSIC MAN / Jerold H. Rubinstein
Continued from page 20

The only problem, he says, is dealing with the aftermath, boredom. After he sold United Artists Records, for example, he "did nothing for six months." Although his tennis game improved, he found that he had gained weight from all the social lunches he used as an excuse to pass time. He laughs, "I'm not the type of person who can just let go and play tennis or golf every day. I need a lot of stimulation."

During his career, Rubinstein has also nurtured talent. His talent roster has included such artists as Chaka Khan, Kenny Rogers and Tina Turner.

Rebounding from retirement, he is the current founder and chairman of Music Imaging & Media Inc., a background and foreground music service that provides digital music over the Internet, in malls and other venues.

Rubinstein is not new to the digital music domain. He was the founder and former chairman and CEO of XTRA Music (a distributor of digital music throughout Europe, the Middle East, and the former Soviet Union), and founder and former chairman and CEO of DMX, Inc., a digital music subscription service. Like his other digital music distribution companies, Music Imaging & Media Inc. serves up a custom-made menu of specialized program formats, including channels devoted to orchestral and chamber music, country, folk, religious and inspirational music, top 40, classic rock, jazz, blues, and alternative music.

"I share the concern that the record industry must remain vibrant and profitable,"

Rubinstein's unique idea of making CD quality music in numerous genres available either to cable and satellite subscribers or in the background for mall shoppers is intended to promote CD sales, not displace them.

"I share the concern that the record industry must remain vibrant and profitable," he says.

No matter what music distribution firm he is heading, it is Rubinstein's personal touch that shines through. He has built his businesses on the idea that music enriches the shopping experience, especially during the season most likely to create long, boring lines at the check-out. ❖



Career Built on Destiny / Tracy K. Rice
Continued from page 20

career built on helping others navigate life's trials. In addition to international human rights and police brutality cases, her caseload has focused on monitoring the conditions of confinement at the nine Los Angeles County Jail facilities.

As the Rainbow/PUSH Bureau Chief, Rice has rubbed shoulders with a who's who of show business and sports luminaries.

"I think with the exception of Mother Theresa, I've gotten to meet everyone I've ever dreamed of meeting," says Rice. The long list is impressive—Rosa Parks, Barbra Streisand, Bill Clinton, and the Dalai Lama, to name a few. She has even ridden in presidential motorcades. But beyond the glitz and glitter, Rice never loses focus of her mission.

"The Civil Rights Movement is nowhere near over," she asserts. "People have a way of talking about it as 'back in the civil rights days' like the fight ended 40 years ago. But those days are still upon us and we have so much work to do. It's no longer about the right to vote or equalizing public accommodations. It's shifted into an economic mode. It's now less about race and more about economic justice issues."

In addition to her professional work, Rice is also a member of the California Committee for Human Rights Watch. She is the mother of three young boys, Cody, Dustin and Tucker. ❖



Not an Ordinary Talent / Steven C. Crosby
Continued from page 26

nothing about trees, but I learned.") as their director of public affairs.

His prowess in public relations and ability to deal effectively with hot-button issues, such as tobacco and timber, brought him to Burson-Marsteller Public Affairs/Public Relations, which in turn led to his joining L.A. Cellular (which became part of AT&T Wireless) in 1994. He started that conglomerate's government relations department. He joined Vulcan in late 2001.

The son of actor Gary Crosby and grandson of legendary crooner Bing Crosby, Steve says that his only forays into show business were a few high school plays and hosting his own college radio show.

"My father forbade me from going into show business, so it forced me to focus my energies elsewhere," shares Crosby. He says that his parents were very careful to make sure he lived a normal life and earned his keep.

"I had jobs all throughout high school, college and law school. I didn't have all the trappings one might expect from a Hollywood lifestyle. My parents kept everything very grounded."

Crosby lives in Seattle and also maintains a Los Angeles residence. An outdoor enthusiast, his greatest passion is scuba diving. "Scuba diving is probably the most amazing, relaxing, exhilarating thing I've ever done in my life," he says. ❖

Random Recollections

Continued from page 30

then let the pen scratch a line off the page. Held, the will was invalid; he hadn't "signed at the end." Ely spent 15 or 20 minutes on that stupid case; we all agreed we'd never see one like it in our practice. What a waste! Yet I had judged prematurely: The very first will I drew in my practice was on all fours; when the lady dying in her hospital bed couldn't marshal the strength to complete her signature, I rushed back to my office, typed up a new last page for her to sign with an "X," and hoped that the relatives she dispossessed wouldn't see what a wobbly mark she made. But, alas! An uncle she hadn't seen in years, a prospector in the Mojave Desert, contested the will, and compromise proved to be the only way out.

I taught Labor Relations Law in all the years I was on the faculty, beginning as an adjunct. Ideally, a course in labor history would have been a prerequisite, because the law developed as an outgrowth of the labor movement. There was no time for that, of course, so to give the students some feel for the labor movement, I taught them rousing union songs in the first half hour of our meeting. Even if you hoped to represent management some day, I insisted, the experience might prove useful. Labor law was a challenging course, involving distinctions that, as Tevye would say, "would cross a rabbi's eyes." At one commencement a graduate told me, "I wouldn't want to take a labor law exam right now, but I want you to know that I remember all the verses of 'Solidarity Forever!'"

When Professor Rex Dibble, master of constitutional law and tax courses, became dean in 1959, the transition to the kind of school we all know now began in earnest.

For decades Father Donovan had made all the decisions. Change would call for patience, determination, and diplomacy, and Dibble supplied all three in abundant measure.

By the time I joined the full-time faculty in 1960, there had been a remarkable change in the gender composition of the student body, as compared with the sparse representation of women in my own years as a student, when only two were students and there were no women on the faculty. During the late fifties, Professor Clemence Smith became the first female on our faculty, soon to be joined by Martha (Yerkes) Robinson. Much to the law school's credit, I believe, during the 26 years I was on the full-time faculty, women applicants for faculty positions and as students were uniformly treated on a par with men, and the prospect that some day they might dominate was never suggested as a risk. ❖

REPUTATION=SUCCESS

Continued from page 31

in contracts and torts, and yet here I was, staring into the faces of a couple with no sense of morality. Were Steve to pass the bar, he would indeed use his license the way he described. "Put the originals back now, Steve," I repeated, over and over again. "Put them back now or I will go to the Dean's Office. It's your choice."

It is one
of the most
fragile things we
possess,
our reputation.

He looked at me, laughed nervously, and put them all back. As insurance that he would not return later and try the same thing, I walked directly to where the head librarian was standing, looked in Steve's direction, talked about the weather, but made large hand gestures, as if I were making photocopies. Steve, I'm sure, got the message. The librarian probably thought that I was suffering from pre-exam jitters.

Twice daily until finals were over, I checked the blue folder. The originals remained in place.

Steve flunked out of school. I had never wished that a classmate would fail, but I did in this case.

Most attorneys who demolish their reputations *usually* wait until after graduation from law school and being sworn in as a member of the Bar. Steve was ahead of the curve. Had he actually become a lawyer, no matter how able or brilliant, were our paths to cross, the only image in my mind of him would still be that of a thief.

It is one of the most fragile things we possess, our reputation: Our reputation with classmates who will become colleagues, partners, and the judges before whom we will stand. Handle it with care. ❖

H. Dennis Beaver '72, was a deputy district attorney in Kern County (Bakersfield) for several years following graduation, and then opened his own general practice. He writes a syndicated legal advice newspaper column and conducts seminars in public speaking both in the States and in Sweden.

The Continuing Battle for **Gender** in **Eq=ality** Reproductive Health

Continued from page 61

has unique health effects on women because only women suffer the physical and mental health risks of unplanned pregnancy.

Trends in coverage of other sex-specific conditions or treatment provide further evidence of gender disparities. For example, plans that exclude prescription contraception typically cover sterilization—a procedure that is riskier and practically irreversible, but available to both men and women. Many of these same plans cover the impotency drug, Viagra. Thus, men have more comprehensive coverage for their reproductive health needs than women. These trends may also reflect gender bias about women's sexual freedom. Treatment designed to enhance men's sexual functioning, such as penile implants and Viagra,

are covered, while safe, reversible forms of birth control that enable women to engage in sexual activity free from the fear of pregnancy are excluded.

It is less obvious that infertility exclusions implicate Title VII because, unlike pregnancy, infertility is a gender-neutral medical condition and exclusions affect treatments for men and women. However, there are gender-specific effects of these exclusions and evidence that such exclusions target women. While infertility exclusions are facially neutral, they have a disparate impact on women. They exclude treatment more often needed by or performed on women, such as drugs used to treat infertility caused by hormonal problems or assisted reproductive technology. Surgery used to correct structural problems (such as a blocked vas

**Lack of insurance coverage
can adversely affect
the type of treatment
received, which, in turn,
can affect women's health.**

deferens tube), which is more often the cause of male infertility, may still be covered to treat a condition unrelated to infertility. This results in a greater financial burden on women.

Even where patients can afford to pursue treatment, lack of insurance coverage can adversely affect the type of treatment received, which, in turn, can affect women's health. Here, the relationship of infertility to pregnancy highlights the unique health effects suffered by women, especially where the treatment required is assisted reproductive technology, such as in vitro fertilization (IVF). For example, one study found that in states where insurance coverage for IVF was not mandated, there was a higher rate of multiple births, apparently due to a greater number of embryos transferred per cycle. The authors of the study speculated that this was probably due to the financial pressure to achieve a "successful" outcome the first time, caused by a lack of insurance coverage. Multiple births significantly increase women's risks of premature labor, premature delivery, pregnancy-induced hypertension, gestational diabetes, and uterine hemorrhage.

There is also evidence that infertility exclusions may be based on stereotypes about women and their value as pregnant employees. Infertility is considered a woman's problem, despite the fact that it occurs in equal rates in men and women. This perception is exacerbated by the focus on the

woman as the one who will ultimately become pregnant as the result of the treatment. Employers fear that female employees who take advantage of infertility treatment will raise their costs in benefits and time away for treatments, and that they will eventually leave to be full-time mothers.

Assuming that plaintiffs can make out a prima facie case for disparate treatment or impact, this does not mean that such treatments must be covered. The burden shifts to the employer to justify the exclusions, and plaintiffs are given the opportunity to prove that the justifications are really pretext for discrimination. This is why plaintiffs won in the *Erickson* case; they demonstrated that the employers' reasons were inconsistent with sound actuarial and medical principles, leaving only an inference of bias.

A PROMISE UNFULFILLED: IS TITLE VII THE POWERFUL TOOL ADVOCATES BELIEVED IT TO BE?

Despite the enactment of the PDA, the resistance to using civil rights law to challenge discriminatory benefits exclusions seen in *Gilbert* remains today. Courts resist by interpreting Title VII and the PDA extremely narrowly. Only exclusions of medical conditions uniquely borne by one sex are viewed as sufficiently sex-linked to make out a prima facie case. Infertility is simple: both men and women are affected by the exclusion so there is no disparate impact or treatment and the case is dismissed or summary judgment granted to the employer. Employers are never required to justify the exclusions.

The problem with this approach is that courts are ignoring the relationship of the challenged exclusion to pregnancy and the unique economic and health effects that women suffer as a result. They also ignore the reality that reproductive health exclusions are often motivated by gender bias. The court in *Erickson*, on the other hand, applied Title VII and the PDA in a meaningful way by considering the ways women are uniquely harmed by pregnancy-related exclusions and closely scrutinizing the employer's justification for hidden bias.

I am hopeful that with a growing understanding of the disparate cost and health effects of reproductive health exclusions on women and the growing outrage about insurance disparities because of high profile drugs like Viagra, the importance of Title VII and the PDA will become more apparent. At least for now, *Erickson* has provided a roadmap for using Title VII and the PDA to fulfill the promise of equality in employment-based health care. ❖

Brietta R. Clark, associate professor, joined the Loyola Law School faculty in 2001. She teaches Health Care Law, Health Care Organizations—Business Planning, Medical Malpractice and the Public Regulation of Health Care Quality and Business Associations.

HOLD THE DATE!

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At the Intersection of **LAW** and TECHNOLOGY

Continued from page 71

this work, every digital receiving device sold in America (TV, VCR, cable or satellite box, TiVo, etc.) will need to recognize and implement the "flag." And you thought you could simply record that last episode of *Friends* for later viewing. Not so fast.

There was a time when the law exerted a subtle but profound effect on technology. Judicial decisions requiring shipboard radios and regulations requiring automobile airbags are examples of "technology

cutting edge of this new synergy. It is one of our gateways to the future

The Program for Law and Technology was inspired (and generously funded) by Henry Yuen, a joint alumnus of Caltech and Loyola. It has been so successful (our mock trial on the genome patent was covered by *Scientific American* and the *London Times*),¹ that we are ready to move into new areas. Loyola is looking at expanding its programs in law and technology through additional outreach and participation in policy-making. We would like to establish an endowed chair with a nationally known scholar, to coordinate and re-vision our projects, programs, and curriculum. Courses in high-tech advocacy skills, student clinics in technology litigation and business development, and development of web-based interactive teaching tools are also on our agenda. We have an important contribution to make, both in public interest (e.g., helping to overcome the digital divide) and public policy (e.g., informing Internet governance). And there's no time to lose.

**In our technological age,
law cannot be merely reactive;
it must be proactive. It must
develop in step with technology
lest it become irrelevant.**

forcing," where engineering improvements occur with legal impetus. But the reverse—"law forcing" through technological advance—is now becoming commonplace. Here, the law is forced to respond rapidly to advances in science and engineering. For instance, digitalization of media threatens to render an entire legal regime (copyright) inadequate. The Digital Millennium Copyright Act, rushed through Congress, now endeavors to criminalize "reverse engineering" of content protection technologies. But its efficacy is seriously challenged, as every Internet user who ever downloaded an MP3 music file can attest.

In our technological age, law cannot be merely reactive; it must be proactive. It must develop in step with technology lest it become irrelevant. Loyola is on the

We've already begun meeting with key alumni throughout California to solicit their input on how best to facilitate and fund these reforms. If you haven't yet heard from us, and want to be involved, please contact Ken Ott at 213.736.1025. And certainly visit the Law & Technology web site (<http://techlaw.lls.edu>), where you can watch Dr. David Baltimore, Caltech president and a Nobel laureate, being arrested (by faux federal agents) for maintaining a web site in violation of the Digital Millennium Copyright Act. Dean Burcham, watch out! ❖

¹ See Gary Stix, "Who Owns You?," *Scientific American*, Mar. 2002; Anjana Ahuja, "Who Owns Your DNA? It Might Not Be You," *The Times*, Feb. 18, 2002.

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<http://alumni.lls.edu>

[Quintessential Loyola]

"The study of the Constitution is the study of ourselves: It is the law that—We The People... have embraced, altered, and amended. Understanding that its victories and failures are our own is the first step to understanding the principle of popular sovereignty."

- Professor Kurt T. Lash
Loyola Law School

"It is very important for any lawyer to develop strong writing ability. It is like a muscle, you have to develop it. If you talk to writers who have achieved success, it's because of all the rewriting that they've done over the years. Writing is an invaluable skill for the lawyer."

- Walter F. Ulloa '74
CEO, Entravision Communications

"The best lawyers are those who do not let others frame the issues for them, but instead can rethink and redefine complex problems. To that end, I stress to my students that to frame the right questions is a necessary first step in arriving at the best answers."

- Professor Paul T. Hayden
Loyola Law School

"My philosophy of legal education is that a teacher must not only teach legal doctrine, critical analysis and lawyering skills, but should also be a role model of caring and ethical behavior."

- Professor Charlotte Goldberg
Loyola Law School

"I realized that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that a large part of my time during twenty years of practice as a lawyer was spent bringing about private compromise of hundreds of cases. I lost nothing thereby—not even money, certainly not my soul."

- Mahatma Gandhi

"I do miss aspects of being a lawyer, however, I can't complain. Now I get to watch as lawyers show me their craft.

When people walk out of my courtroom I want them to say, 'Ah, this is how the judicial system should work.'"

- Hon. Carol Williams Elswick '83
Superior Court

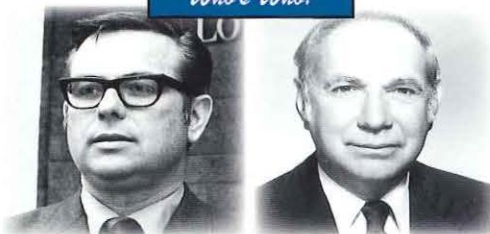
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TRIAL OF THE CENTURY



Dean of Loyola Law School Joseph Scott represents the famed evangelist Aimee Semple McPherson during a slander trial in 1937, termed the trial of the century.

Who's Who?



Can you name these two former
Deans of Loyola Law School?

* Answer [L] Leo O'Brien [R] Ted Bruinsma

"Loyola gave me an opportunity that I never would have had. If they didn't have the night program, I'd never have become a lawyer. And today, the quality of students is amazing. These young people are far ahead of where I was even five years out of law school."

- Robert C. Baker '71
Baker, Keener, and Nahra

"Much of our formal interaction involves words. But words are slippery and elusive. Law is the craft of tying coercive meaning to words. It is therefore one of the principal intersections of thought and action. That is why it is both empowering and exciting."

- Professor Theodore P. Seto
Loyola Law School

(Remembering Professor Becker -
Teacher of Negotiable Instruments Circa 1956-1959)

"Professor Becker had a firm rule, do not enter my class after I start teaching. I would come late but lost nothing, as Professor Becker had a loud and dramatic teaching voice. So I would sit on the floor outside the class and take my notes and then enter the class at a break."

- Robert Ferguson '59
(retired)

"While most law school curriculum teaches you to think like a lawyer, Loyola offered me opportunities to refine my talents to practice like one. Almost immediately after graduating from Loyola, I was at a considerable advantage. I credit many of the victories in court that have yielded financial fruits in my practice to the skills and knowledge my education at Loyola provided."

- Peshman C. Ardalan '00
Ardalan & Associates

"The key to our system of justice is the jury trial. After 34 years working in trials my respect for juries continues to grow. While certainly not perfect, I would challenge anyone to find a better or more fair manner of delivering justice."

- Hon. Jeffrey L. Gunther '71
Superior Court

Tax LL.M. Program

Loyola offers rigorous post-graduate training leading to the degree of Master of Laws in Taxation. Our goal is to provide the kind of advanced tax education that students, in the past, have traveled to New York, Washington, or Florida to obtain. Admission is competitive.

All courses in the LL.M. program are offered in the evening. The course schedule is structured to enable students to complete the program part-time by attending one evening per week for three years. Alternatively, full-time students can complete the program in one year.

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- Corporate Taxation I & II
- Criminal Tax Practice and Procedure
- Employee Pensions and Benefits
- Estate and Gift Taxation I & II
- Estate Planning
- Honors Tax Research
- Income Taxation II & III
- Income Taxation of Trusts and Estates
- International Taxation I, II, & III
- Partnership Taxation I & II
- State and Local Taxation
- Tax Aspects of Business Planning
- Tax Policy
- Taxation of Corporate Mergers, Acquisitions, and Reorganizations
- Tax Practice and Procedure
- Taxation of Intellectual Property
- Tax-Exempt Organizations

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For further information
regarding Loyola's
Tax LL.M. Program, call
the Admissions Office
at 213.736.1024 or
visit our web site at

www.LLS.edu

Enrollment is limited to applicants who have received a J.D. or LL.B. from an ABA-accredited American law school or the foreign equivalent. All students must have completed an introductory U.S. federal income tax law course of at least three semester units prior to entry into the program. Applicants may meet this requirement by taking Loyola's Income Taxation I as special students during the spring or summer term prior to matriculation.

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